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In the Supreme Court of the United States

OCTOBER TERM, 1975

COMMISSIONER OF INTERNAL REVENUE, PETITIONER

v.

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

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The Solicitor General, on behalf of the Commissioner of Internal Revenue, petitions for a writ of certiorari to review the judgment of the United States Court of Appeals for the Tenth Circuit in this case.

OPINIONS BELOW

The memorandum opinion of the Tax Court (App. A, *infra*, pp. 1a-8a) is not officially reported. The opinion of the court of appeals (App. B, *infra*, pp. 9a-23a) is reported at 525 F.2d 786.

JURISDICTION

The judgment of the court of appeals (App. C, *infra*, pp. 24a-25a) was entered on November 6, 1975. The court of appeals denied a petition for rehearing with suggestion for rehearing *en banc* on January 9, 1976 (App. D, *infra*, pp. 26a-27a). By orders dated March 30 and April 26, 1976, Mr. Justice White extended the time for filing a petition for a writ of certiorari to and including June 6, 1976 (a Sunday). The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTION PRESENTED

Whether a life insurance company which reduces its federal tax liability by including in its "reserves" the net valuation portion of its deferred and uncollected premiums on the assumption that the full annual premiums on all of its outstanding policies have been paid on their anniversary dates, must either (A) include the full amount of its deferred and uncollected premiums in its "assets" and "gross amount of premiums" under Sections 805(b)(4) and 809(c)(1) of the Internal Revenue Code of 1954, or (B) exclude such premiums altogether in computing its "reserves," "assets" and "gross amount of premiums"; or whether, as the court of appeals held, it can exclude altogether its deferred and uncollected premiums from "assets" and "gross amount of premiums" but nevertheless include their net valuation portions in its "reserves."

STATUTES AND REGULATIONS INVOLVED

The pertinent provisions of Sections 801, 802, 804, 805, 809, 810, and 818 of the Internal Revenue Code of 1954, as amended (26 U.S.C.), and of Treasury Regulations, Sections 1.801-4, 1.805-5 and 1.809-4 (26 C.F.R.) are set forth in App. E, *infra*, pp. 28a-51a.

STATEMENT

Respondent is an Oklahoma stock corporation engaged in the business of issuing insurance. During 1958-1961, it qualified for preferential federal tax treatment as a "life insurance company" under Section 801(a) of the Internal Revenue Code of 1954. As a life insurance company, respondent was subject to supervision and audit by the Oklahoma Insurance Commissioner, as assisted by the National Association of Insurance Commissioners ("N.A.I.C.") (App. A, *infra*, pp. 2a-3a; App. B, *infra*, p. 10a).

Respondent receives income in the form of life insurance premiums. The "gross premium" is the amount actually charged an insured, and is equal to the sum of the "net valuation premium" and "loading." The "net valuation premium" equals the sum of money sufficient under applicable actuarial tables (based upon mortality and interest rate assumptions) to pay all death claims. Respondent was required under Oklahoma law to add this sum to its policy reserve each year. "Loading" is the amount added to the "net valuation premium" for agents' commissions and other acquisition costs, management and operat-

ing expenses, profits and dividends (App. B, *infra*, p. 10a).

Respondent's policyholders pay their premiums annually, or in semi-annual, quarterly, or monthly installments. When policyholders pay their premiums other than annually, "deferred premiums" are those portions of the gross annual premiums that become due after the end of each calendar year but before the next anniversary date of the policy. "Due and unpaid premiums" or "uncollected premiums" are premiums that are due and payable before the end of the calendar year but which have not been paid (App. B, *infra*, p. 11a).

Respondent's life insurance policies provide for a grace period of 31 days or longer for the payment of premiums, during which the policy is fully effective. The insured has no obligation to pay the deferred or due and unpaid premiums on his policy. However, the insurer has no obligation to continue the insurance coverage beyond the period for which premiums have been paid. Thus, non-payment causes the policy to lapse (App. B, *infra*, p. 11a).

Pursuant to Oklahoma law, respondent was required to compute its reserves on its policies on the assumption that the annual premiums had been paid as of the anniversary date of the policy, whether or not this was the case. For federal tax purposes, respondent included the net valuation portion of its "deferred and uncollected premiums"[1] in its "life

[1] For purposes of convenience, we employ the term "deferred and uncollected premiums" to include deferred premiums, and due and unpaid or uncollected premiums.

insurance reserves" for the purposes of Section 801 (b)(1) of the Internal Revenue Code of 1954. Respondent accordingly took these additions to its reserves into account in making the federal tax computations under Sections 805 and 809 of the Code (App. A, *infra*, p. 3a; App. B, *infra*, p. 11a).

On its income tax return for 1958, respondent did not include any amount for deferred and uncollected premiums in computing its "assets" under Section 805(b)(4). On its returns for 1959 and 1961, respondent included in its Section 805(b)(4) computation of assets only the net valuation portion (exclusive of loading) of its deferred and uncollected premiums. Similarly, in its Section 809(c)(1) computation of "gross amount of premiums" on its 1958, 1959, and 1961 returns, respondent included only the net valuation portion of its deferred and uncollected premiums[2] (App. A, *infra*, pp. 5a-6a; App. B, *infra*, pp. 11a-12a).

On audit, the Commissioner of Internal Revenue determined that respondent was required to include the gross amount of its deferred and uncollected premiums in "assets" and in "gross amount of premiums" under Sections 805(b)(4) and 809(c)(1),

[2] The courts below characterized respondent as having claimed "deductions for the increases in loading" in computing its gains from operations under Section 809 (App. A, *infra*, p. 6a; App. B, *infra*, p. 12a). By including only the net valuation portion of its deferred and uncollected premiums in its "gross amount of premiums," the effect was the same as if respondent deducted the loading portion from the Section 809 computation.

respectively (App. B, *infra*, p. 12a). He accordingly determined deficiencies against respondent for 1958, 1959, and 1961, of $25,974.93, $90,647.02, and $34,986.04, respectively (App. A, *infra*, p. 1a).[3] On the authority of its decision in *Bankers Union Life Insurance Co.* v. *Commissioner*, 62 T.C. 661, the Tax Court rejected respondent's contention that it did not have to include deferred and uncollected premiums in "assets" under Section 805(b)(4) (App. A, *infra*, p. 7a). It also rejected respondent's second contention that "some portion or all of those premiums may be excluded or deducted from [its] 'gain from operations' under section 809" (App. A, *infra*, p. 8a).

A divided court of appeals reversed. The court held that respondent was not required to include any portion of its deferred and uncollected premiums in "assets" and "gross amount of premiums" even though it took the net valuation portion of these premiums into account in its reserves for purposes of the Sections 805 and 809 computations. While the majority acknowledged that four courts of appeals had previously upheld the Commissioner's position (App. B, *infra*, pp. 13a-14a), it premised its conclusion on the fact that respondent "has no legal, enforceable right to collect any unpaid premiums * * *" (App. B, *infra*, p. 18a). In the court's view, "it is * * * obvious that unpaid premiums are not 'assets used by a company in carrying on a trade or business' and that they cannot have any 'viable' asset basis until

[3] The Commissioner's adjustments did not result in a deficiency for 1960.

collected" (*ibid.*). The court likewise concluded that the "gross amount of premiums" under Section 809(c)(1) "cannot extend to unpaid premiums in which a taxpayer has no legally enforceable right" (App. B, *infra*, p. 21a).

After observing that the issue "has been considered by four other Circuits, and in each instance * * * [those courts had] reached a conclusion contrary to the result reached by the majority * * *," the dissenting judge stated that he was "persuaded that the result reached by the Fourth, Fifth, Sixth and Seventh Circuits is the proper one" (App. B, *infra*, p. 22a).

REASONS FOR GRANTING THE WRIT

1. In holding that a life insurance company could reduce its federal tax liability by including the net valuation portion of its deferred and uncollected premiums in its reserves on the assumption that the annual premiums on its policies have been paid on their anniversary dates but nevertheless exclude such premiums from "assets" and "gross amount of premiums" under Sections 805(b)(4) and 809(c)(1) of the Code, the court of appeals acknowledged (App. B, *infra*, pp. 13a-14a) that its decision directly conflicts with decisions of four other circuits. See *Franklin Life Insurance Co.* v. *United States*, 399 F.2d 757 (C.A. 7), certiorari denied, 393 U.S. 1118; *Jefferson Standard Life Insurance Co.* v. *United States*, 408 F.2d 842 (C.A. 4), certiorari denied, 396 U.S. 828; *Western National Life Insurance Co. of Texas* v. *Commissioner*, 432 F.2d 298 (C.A. 5);

Western and Southern Life Insurance Co. v. *Commissioner*, 460 F.2d 8 (C.A. 6), certiorari denied, 409 U.S. 1063. See also *Great Commonwealth Life Insurance Co.* v. *United States*, 491 F.2d 109 (C.A. 5).

The question is of great fiscal importance. The proper tax treatment of deferred and uncollected premiums affects every life insurance company and has the largest revenue impact of all of the issues currently being litigated under the Life Insurance Company Income Tax Act of 1959. We are advised by the Internal Revenue Service that it estimates the total amount of tax put in dispute by the decision below with respect to the exclusion of deferred and uncollected premiums from "assets" of those life insurance companies within the jurisdiction of the Tenth Circuit and the six remaining circuits that have not yet spoken on this issue to be substantially more than $100 million for the years 1972 through 1974 alone.[4]

[4] The Internal Revenue Service advises that nine of the ten largest life insurance companies are within the jurisdiction of the circuits in which the question of the proper tax treatment of deferred and uncollected premiums is open. Its revenue estimates are based upon industry-wide statistics as set forth in Institute of Life Insurance, *Life Insurance Fact Book* (1975).

There are 37 refund suits by 28 life insurance companies currently pending in the Court of Claims (which has not yet spoken to the issue) and the district courts involving the question of the proper tax treatment of deferred and uncollected premiums, which involve a total of $75,284,067. Of this amount, $81,572 is involved in a refund suit pending in a district court within the Fifth Circuit, which has upheld the Commissioner's position.

The substantial revenue impact of this decision is not limited to this three-year period because the tax years of most life insurance companies from 1958 [5] have remained open by agreement with the Internal Revenue Service. This Court should resolve the conflict and uncertainty created by the decision below and establish a national rule for the benefit of both the life insurance industry and the government alike.

2. a. The Life Insurance Company Income Tax Act of 1959, as set forth in Sections 801-820 of the Internal Revenue Code of 1954, provides a three-phase procedure for the taxation of life insurance companies. The primary categories of income subject to tax are "taxable investment income" (as defined in Section 804) and "gain from operations" (as defined in Section 809). "Taxable investment income" is, as the term implies, income from interest, dividends, and the like. "Gain from operations" is a broader category encompassing total net income from all sources, *i.e.*, taxable investment income plus other income, principally underwriting income.

[5] Section 4 of the Life Insurance Company Income Tax Act of 1959, 73 Stat. 141, makes the Act applicable to all tax years beginning after December 31, 1957.

We are advised by the Internal Revenue Service that three of the ten largest insurance companies have cases pending before the Court of Claims involving this issue for periods beginning with the year 1958. They are: Prudential Life Insurance Co. (1958-1964), John Hancock Life Insurance Co. (1958-1965) and Aetna Life & Casualty Co. (1958-1960). The Internal Revenue Service further advises that of the seven remaining such companies, six have all of their years from 1958 pending administratively or have time remaining in which to file a claim for refund.

Pursuant to Section 802(b), the total tax base of a life insurance company to which the ordinary corporate rates are applied is the sum of the tax bases derived from computations under each of the three phases. The Phase I tax base (Section 802(b)(1)) is the smaller of "taxable investment income" or "gain from operations." The Phase II tax base is equal to 50 percent of the excess, if any, of the gain from operations over taxable investment income (Section 802(b)(2)). Since "gain from operations" is a broader category comprising the company's net income from all sources, the sum of the Phase I and II tax bases can be alternatively described as the company's "gain from operations" up to the amount of its "taxable investment income" plus 50 percent of the excess over "taxable investment income." Finally, the deferred portion of underwriting income that is not taxed under Phase II becomes the Phase III tax base when such income is made available to shareholders (Section 815). See *United States* v. *Atlas Life Ins. Co.*, 381 U.S. 233, 235 n. 2.

For purposes of the Phase I and II tax bases, the determination of the total tax base involves a series of computations directed toward arriving at the fundamental categories of "taxable investment income" [6] and "gain from operations." Like the earlier tax stat-

[6] There is a slight variation between the Phase I and II methods of computing "taxable investment income." However, that difference is not relevant for present purposes.

utes,[7] the 1959 Act recognizes that life insurance companies are required to maintain policyholder reserves to meet future claims and that the annual increments to the reserves should be free of tax. Section 801(b)(1) of the Code defines life insurance reserves and the statutory scheme provides a method for establishing the amount which, for tax purposes, is deemed to be added each year to these reserves.

Accordingly, the computations of both "taxable investment income" and "gain from operations" provide a statutory mechanism for excluding from the total tax base those portions of investment and underwriting income which must be added to the reserves. The payment of premiums necessarily results in the creation and funding of reserves that the company must invest. Thus, as the reserves and the amount of income necessary to fund the reserves in-

[7] The concept that a tax should be levied on net investment income but after an allowance to meet obligations to policyholders was first embodied in the Revenue Act of 1921, c. 136, Sections 242-247, 42 Stat. 261-264. It was carried forward in subsequent Acts dealing with insurance company taxation, although various formulae were used in computing the amount of the reserve exclusion. See Revenue Act of 1924, c. 234, Section 245(a), 43 Stat. 289-290; Revenue Act of 1926, c. 27, Section 245(a), 44 Stat. 47-48; Revenue Act of 1928, c. 852, Section 203(a), 45 Stat. 842-844; Revenue Act of 1932, c. 209, Section 203(a), 47 Stat. 224-225; Revenue Act of 1934, c. 277, Section 203(a), 48 Stat. 732-733; Revenue Act of 1936, c. 690, Section 203(a), 49 Stat. 1710-1711; Revenue Act of 1938, c. 289, Section 203(a), 52 Stat. 523-524; Internal Revenue Code of 1939, Section 203(a), 26 U.S.C. (1952 ed.) 203(a).

crease, the federal tax base will correspondingly decrease. Simply stated, the greater the reserves, the smaller the tax base.

(1) *Taxable Investment Income.* With respect to determining "taxable investment income," the statutory computations are generally directed toward dividing the investment income for the taxable year between a nontaxable "policyholders' share" deemed necessary for policyholder reserve obligations and a taxable "life insurance company's share." This is accomplished by dividing the company's "investment yield" [8] by the "assets" of the company [9] to produce an earnings rate. This rate, after adjustment,[10] is then multiplied by the company's adjusted life insurance reserves for policyholders.[11] The resulting prod-

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[8] Section 804(c) defines "investment yield" as "gross investment income," less specified deductions, including investment expenses, real estate expenses, depreciation and trade and business expenses, subject to certain exceptions and limitations.

[9] Section 805(b)(4) defines "assets" as "all assets of the company * * * other than real and personal property (excluding money) used by it in carrying on an insurance trade or business."

[10] The adjusted earnings rate equals the current earnings rate, or the average of the current earnings rate and the rates from the four years prior to the current rate, whichever is lower. See Section 805(b)(1), (2) and (3).

[11] Adjusted life insurance reserves are the company's life insurance reserves for policyholder obligations, adjusted for the difference between the assumed interest rate used by the company in computing the reserves and the actual earnings

uct is the exclusion from taxes for the amounts of investment income that must be added to life insurance reserves.

The foregoing computation may be expressed in the following formula:

$$\frac{\text{Investment yield}}{\text{Assets}} = \text{Earnings Rate}$$

$$\text{Earnings Rate (Adjusted)} \times \text{Reserves (Adjusted)} = \text{Tax Exclusion}$$

This formula graphically demonstrates that as assets increase, the earnings rate and the tax exclusion will decrease. However, as "reserves" increase, the tax exclusion will also increase. See *Western National Life Insurance Co. of Texas* v. *Commissioner*, *supra*, 432 F.2d at 300.

(2) *Gain from Operations.* The company's "gain from operations" includes its income from all sources less certain specified deductions. Since "gain from operations" includes the previous element of "taxable investment income," the computation of "gain from operations" is directed toward taking into account income from other sources, principally underwriting income. Underwriting gains result when the premium charged for a policy is in excess of the costs to the company for providing the coverage. Thus, in addi-

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rate. The reserve is reduced by 10 percent for every 1 percent by which the applicable earnings rate exceeds the company's assumed interest rate. To the amount so calculated are added pension plan reserves multiplied by the current earnings rate and interest paid during the taxable year. See Section 805(b), (c) and (d); *United States* v. *Atlas Life Ins. Co.*, *supra*, 381 U.S. at 236 n. 4.

tion to its taxable share of investment income, the items taken into account include the "gross amount of premiums," decreases in certain reserves, and other amounts (Section 809(c)).

The specified deductions (Section 809(d)) include non-investment expenses, such as underwriting expenses, salaries, and general overhead, and claims paid. In accord with the congressional decision to exclude policyholder reserves from the tax base, Section 809(d)(2) permits a deduction for increases in reserves during the taxable year. When the various deductions are subtracted from the company's gross income from all sources, the resulting figure is the "gain from operations."

Since "gross amount of premiums" is an income item in the above computation, increases in that element will result in a greater figure for "gain from operations" and a higher tax base. Conversely, since "increases in reserves" is a deduction item, increments to that statutory element will decrease the tax base.

b. Many of respondent's policyholders pay their premiums in semi-annual, quarterly, or monthly installments. Despite the fact that it had not received the full amount of the premiums as of the anniversary dates of these policies, respondent computed its reserves for federal tax purposes on the assumption that the full amounts of the "deferred and uncollected premiums" had been paid as of those dates. It therefore added to its reserves the net valuation premiums attributable to these deferred and uncollected

premiums, *i.e.*, the amount necessary under the applicable mortality tables that, together with interest, will provide the benefits under the policies. The court of appeals held that respondent was not required to include the deferred and uncollected premiums in "assets" (Section 805(b)(4)), relative to the "taxable investment income" computation, or in "gross amount of premiums" (Section 809(c)(1)), relative to the "gain from operations" computation.

The impact of this ruling upon each of the statutory computations is two-fold. With respect to the computation of "taxable investment income," the formula (p. 13, *supra*) demonstrates that the exclusion of the deferred and uncollected premiums from "assets" will result in a higher earnings rate and a greater tax exclusion. The inclusion of the deferred and uncollected premiums in "reserves" likewise results in a greater tax exclusion. Similarly, with respect to the computation of "gain from operations," exclusion of deferred and uncollected premiums from the income item "gross amount of premiums" and inclusion of the reserves attributable to such premiums in the deduction item "net increases in reserves" will result in a lower figure for "gain from operations."

Thus, the exclusion by the court of appeals of the deferred and uncollected premiums from "assets" and "gross amount of premiums" while including them in "reserves" produces a substantial narrowing of the Phase I and II tax bases of a life insurance company.

3. The fundamental error of the court of appeals is that it relied upon a contradictory set of assumptions concerning deferred and uncollected premiums. Those premiums, as the court observed (App. B, *infra*, pp. 11a, 18a n. 4), had not actually been paid to respondent during the taxable year and respondent had no legal right to compel their payment. But in approving respondent's inclusion of the net valuation premiums attributable to the deferred and uncollected premiums in its "reserves" for tax purposes, the court assumed that those premiums had been paid during the taxable year as of the anniversary dates of the policies. However, in holding that the deferred and uncollected premiums could be excluded from "assets" and "gross amount of premiums," the court made the contrary assumption that these premiums had not in fact been paid during the taxable year.

A life insurance company cannot have it both ways under the statute. It cannot first treat its deferred and uncollected premiums as having been paid during the taxable year for purposes of including them in "reserves" and thereby reduce its tax base, and then turn around and assert that it has not received the identical premiums for purposes of the "assets" and "gross amount of premiums" computations. The decision below improperly assumes that the deferred and uncollected premiums have been paid and have not been paid during the taxable year. As the Fourth Circuit succinctly put it in *Jefferson Standard Life Insurance Co.* v. *United States*, *supra*, 408 F.2d at 856, "Symmetry would require * * * that both sides of the

equation by which taxable income is determined be treated alike. Thus, if taxpayer treats its reserve liabilities for tax purposes with a full year's net valuation * * * it should be required to include gross annual premiums * * *." Accord: *Franklin Life Insurance Co.* v. *United States*, 399 F.2d 757 (C.A. 7), certiorari denied, 393 U.S. 1118; *Western National Life Insurance Co. of Texas* v. *Commissioner*, 432 F.2d 298 (C.A. 5); *Western and Southern Life Insurance Co.* v. *Commissioner*, 460 F.2d 8 (C.A. 6), certiorari denied, 409 U.S. 1063; *Great Commonwealth Life Insurance Co.* v. *United States*, 491 F.2d 109 (C.A. 5).

The court of appeals attempted to refute the analyses of the four circuits that have upheld the Commissioner's position on the ground that here respondent was required by Oklahoma law to establish reserves for each of its policies. From this premise, the court concluded that while "the reserves actually exist as a liability, the unpaid premiums do not exist until actually paid" (App. B, *infra*, p. 14a). In its view, the net valuation portions of the deferred and uncollected premiums were therefore required to be included in respondent's reserves while such premiums could not be included in its "assets" and "gross amount of premiums."

But the state law applicable in each of the appellate decisions upholding the Commissioner's position was identical to the Oklahoma law to which respondent was subject. At all events, this reasoning overlooks the critical fact that the reserves of a life insur-

ance company are not bookkeeping entries created in a vacuum. They represent liabilities to the policyholders only to the extent that the policyholders pay premiums out of which the reserves can be funded. See *New York Life Ins. Co.* v. *Edwards*, 271 U.S. 109, 119. Thus, to the extent that state law required respondent to include the net valuation portion of its deferred and uncollected premiums in the computation of its reserves, that state law requirement is based on the selfsame assumption upon which the Commissioner's position rests, *viz.*, that all of the premiums have been paid as of the anniversary dates of the policies.

In sum, the state law to which respondent is subject cannot justify the contradictory set of assumptions upon which the decision below is based. If the net valuation portions of the deferred and uncollected premiums are deemed to be paid for purposes of inclusion in the reserves, they must likewise be deemed to be part of the company's "assets" and "gross amount of premiums." Accord: Treasury Regulations, Sections 1.805-5 and 1.809-4, Appendix E, *infra*, pp. 48a-51a. Conversely, if the deferred and uncollected premiums are not deemed to be part of the company's "assets" and "gross amount of premiums," the net valuation portion of such premiums cannot be included in its reserves. Accord: Treasury Regulations, Section 1.801-4(f), App. E, *infra*, pp. 47a-48a. The touchstone of these Treasury Regulations, which the court of appeals erroneously invalidated (App. B, *infra*, pp. 17a, 21a), is that the tax treatment of deferred and uncollected premiums must adhere to a consistent set of assumptions—either those premiums are deemed to be paid for all purposes or deemed not to be paid for any purpose.

4. The unsoundness of the decision below is further demonstrated by the fact that the position of the life insurance industry has never gone as far as the approach adopted by the court of appeals. In all of the litigation to date under the Life Insurance Company Income Tax Act of 1959, the industry has not contended that the deferred and uncollected premiums could be excluded in their entirety from "assets" and "gross amount of premiums" under Section 805(b)(4) and 809(c)(1). To the contrary, the life insurance industry has acknowledged that the deferred and uncollected premiums are includable in "assets" and "gross amount of premiums," at least to the extent of the net valuation portion of those premiums.

The industry's position is shown by the sequence of events in *Western National Life Insurance Co. of Texas* v. *Commissioner*, *supra*. There, the Tax Court originally held, in conformity with the decision below in this case (50 T.C. 285, 297-300), that the entire amount of deferred and uncollected premiums was excludable from "assets." However, on the Commissioner's motion for reconsideration, the Tax Court modified its decision and adopted the position of the American Life Convention and the Life Insurance Association as *amici curiae* that deferred and uncollected premiums were includable in "assets" only to the extent of the net valuation portion of those pre-

miums (51 T.C. 824). While the Fifth Circuit reversed the Tax Court and upheld the Commissioner's position that the full amount of the deferred and uncollected premiums was includable in "assets," it noted that the Tax Court's holding was in conformity with the industry's views (see 432 F.2d at 301).[12]

The disparity between the life insurance industry's position and that of the court of appeals shows the radical nature of the decision below. While the industry's position is not as financially beneficial to the life insurance company as the ruling of the court of appeals, its approach suffers from the same contradictory set of assumptions as the decision below.

If a life insurance company assumes that the deferred and uncollected premiums on all of its policies have been paid as of their anniversary dates and increases its reserves for tax purposes by the net valuation portion of such premiums, that assumption necessary stands on the hypothesis that the company has received the full amount of those premiums and not some lesser amount. Thus, four circuits have correctly held that it is the gross amount of premiums that must be taken into account in the tax computations. In this respect, the language of Section 809(c)(1)—"gross amount of premiums"—refutes the in-

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[12] After four circuits had rejected its modified decision in *Western National Life Insurance Co.* (51 T.C. 824), the Tax Court subsequently upheld the Commissioner's position in *Bankers Union Life Insurance Co.* v. *Commissioner*, 62 T.C. 661. Its holding here was on the authority of that latter decision (App. A, *infra*, pp. 7a-8a).

dustry's contention that the deferred and uncollected premiums are includable in the tax computations only on a net valuation basis.

CONCLUSION

For the reasons stated, the petition for a writ of certiorari should be granted.

Respectfully submitted.

ROBERT H. BORK,
Solicitor General.

SCOTT P. CRAMPTON,
Assistant Attorney General.

STUART A. SMITH,
Assistant to the Solicitor General.

GILBERT E. ANDREWS,
ERNEST J. BROWN,
GARY R. ALLEN,
Attorneys.

JUNE 1976.

APPENDIX A

T. C. Memo. 1974-242

UNITED STATES TAX COURT

Docket No. 4132-71

STANDARD LIFE AND ACCIDENT INSURANCE CO., PETITIONER

v.

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

Filed September 18, 1974

Gene A. Castleberry, for the petitioner.

Thomas J. Miller, for the respondent.

MEMORANDUM OPINION

TIETJENS, *Judge*: The Commissioner determined the following deficiencies in and additions to petitioner's income taxes:

Year	Deficiency	Section 6653(a) Additions to Tax
1958	$25,974.93	$1,298.75
1959	90,647.02	4,532.35
1961	34,986.04	1,749.30

The questions for decision are: (1) Whether deferred and uncollected premiums, including loading, and due and unpaid premiums, including loading, must be included in calculating petitioner's assets as

defined by section 805;[1] (2) Whether either those premiums or the increase in the loading portions thereof must be included in petitioner's gross underwriting income in determining its gain from operation under section 809; and (3) Whether petitioner may amortize the cost of blocks of cancellable health and accident insurance policies purchased from other insurance companies.[2]

This case was fully stipulated pursuant to Rule 122, Tax Court Rules of Practice and Procedure. The facts which we deem necessary for decision will be referred to below.

Petitioner is, and at all times material hereto has been, a life insurance company as defined in section 801(a), with its home office and principal place of business in Oklahoma City, Oklahoma. Petitioner filed its federal income tax returns (Forms 1120L) for the calendar years 1958, 1959, 1960, and 1961 with the district director of internal revenue at Oklahoma City, Oklahoma.

In Bankers *Union Life Insurance Co.*, 62 T.C. —— (August 21, 1974), we defined certain terms common to the life insurance industry. We rely on those definitions in our discussion of the relevant facts of the instant case.

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[1] All statutory references are to the Internal Revenue Code of 1954, unless otherwise stated.

[2] In its brief, petitioner says it is not presenting the issue, raised in its petition, of whether agent's debit balance must be included in assets as defined by section 805. Accordingly, we do not consider it.

Petitioner is a stock life insurance company organized and existing under the laws of the State of Oklahoma. Its operations and accounts are subject to the supervision and approval of the Insurance Commissioner of the State of Oklahoma and, because it does business in numerous states, it is subject to periodic audit of its accounts by the National Association of Insurance Commissioners (hereafter NAIC) which acts on behalf of the insurance departments of the various states.

Petitioner was required by the State of Oklahoma and by the NAIC to compute its reserves on the great majority of its life insurance policies on the assumption that premiums were paid up one year in advance on each anniversary date commencing with the issuance date of the policy, even though premiums were not usually paid in this manner. The reserves so computed were reflected as a liability of petitioner and, as required by the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959, were taken into account in the computations required under sections 805 and 809 on the federal income tax returns filed by petitioner for the taxable years 1958 to 1961, inclusive.

The increases and decrease in loading for each of the years involved were as follows:

1958	—	$ 65,308
1959	—	301,252
1960	—	(140,372)
1961	—	72,139

Relevant deferred and uncollected premiums (including loading) and due and unpaid premiums (including loading) were as follows:

Year	Deferred & uncollected premiums	Due and unpaid premiums
1957	$ 621,413	$118,047
1958	834,331	266,323
1959	1,314,987	253,318
1960	1,570,193	232,651
1961	1,572,763	231,969

The NAIC annual statement [3] treats deferred and uncollected premiums on a net basis. On the assets page of the balance sheet, the statement provides space for the entry of "Life Insurance premiums and annuity considerations deferred and uncollected." In detailing the assets, the statement provides for setting forth deferred and uncollected premiums on a net basis and provides for a memorandum account to show the amount of loading excluded from the deferred and uncollected premiums. On the liabilities page of the balance sheet, the statement provides space for the entry of the " 'Cost of collection' on premiums and annuity considerations deferred and uncollected in excess of total loading thereon." In conformity with the NAIC annual statement, petitioner's annual statements for 1958, 1959, 1960, and

[3] In its requested findings of fact, petitioner refers to the form it used for its annual statements as the "NAIC annual statement." The Commissioner does not object to that reference.

1961 showed net premiums deferred and uncollected as an asset. Also in conformity with the form, petitioner's annual statement did not show loading as an asset.

In the "Summary of Operations" contained in the NAIC annual statement, "Premiums and annuity considerations" includes deferred and uncollected premiums at gross to be added to gross premiums collected during the year less deferred and uncollected premiums at gross as of the end of the previous year. In that summary, the "Increase in aggregate reserve for policies and contracts with life contingencies" removes from income the net portion of the deferred and uncollected premiums. Also in that summary, the NAIC statement provides for the deduction of the increase in loading on deferred and uncollected premiums and also for the deduction of cost of collection of premiums in excess of loading on deferred and uncollected premiums. The deduction for increase in loading on deferred and uncollected premiums was claimed by petitioner on its federal income tax returns in determining its net gain from operations.

On its income tax return for the taxable year 1958, petitioner did not include any amount for deferred and uncollected premiums and due and unpaid premiums in computing its assets under section 805. On its returns for the years 1959 and 1961, petitioner included in its computation of assets only the net valuation premiums (exclusive of loading) with respect to its deferred and uncollected premiums and

due and unpaid premiums. On its returns for 1958, 1959, and 1961, petitioner claimed deductions for the increases in loading in computing its gains from operations under section 809.

On October 31, 1957, the petitioner purchased a block of insurance policies from United Founders Life Insurance Company for a net cost of $219,-524.21. On April 1, 1958, the petitioner purchased a block of insurance policies from Commonwealth Life Insurance Company at a net cost of $247,098.22. On October 1, 1960, the petitioner purchased a block of insurance policies from Great Western Life Insurance Company at a net cost of $77,280.29. The policies were accident and health and hospitalization policies and were all of the type generally referred to as "cancellable." "Cancellable" does not mean that the company could terminate a policy in midterm, but rather that it could refuse to renew any policy at the end of its stated term, for the policies were renewable at the option of the company.

On petitioner's income tax return for the years in issue, petitioner deducted as expenses in the years paid the current costs of the purchases of the blocks of insurance. Because the costs of these blocks of insurance were expensed in the years incurred, the petitioner did not cull and collate records sufficient to show either persistency of individual policyholders, premiums paid, or claims as they pertained to particular blocks of policies. Beginning in 1963, however, the petitioner kept its records by computer and thereby achieved the ready capacity to show premium

income received and claims paid by particular blocks of policies, including the three blocks here involved.

At the time of the purchase of each block of policies the Annualized Premium in Force (the total amount of premiums which would be received if every policyholder paid the premiums on his policy as they came due during the 12-month period following the date of the purchase contract) for each block was as follows:

Block	United Founders	Commonwealth	Great Western
Date	10/31/57	4/1/58	10/1/60
APIF	$468,156	$1,036,042	$301,959

From 1963 through 1972 the actual premiums received and claims paid during each year were as follows:

Year End	United Founders		Commonwealth		Great Western	
	Premiums	Claims	Premiums	Claims	Premuims	Claims
1963	$39,307	$26,719	$37,127	$22,390	$81,358	$51,098
1964	35,697	25,948	34,958	24,834	68,580	38,190
1965	26,414	17,854	31,737	17,183	56,923	29,861
1966	20,181	13,965	26,168	12,126	43,602	24,180
1967	16,847	8,779	20,612	11,680	29,002	18,216
1968	15,554	10,681	17,759	7,901	22,288	13,431
1969	14,020	10,124	15,775	7,204	17,846	8,320
1970	12,836	10,123	14,095	6,238	15,887	11,741
1971	11,685	9,836	12,114	6,569	13,618	10,024
1972	10,539	5,328	10,860	6,898	12,551	6,544

Petitioner's argument that it need not include in "assets" under section 805 deferred and uncollected premiums and due and unpaid premiums must fail on the authority and reasoning of *Bankers Union Life Insurance Co.*, 62 T.C. —— (August 21, 1974).

Similarly, on that authority and reasoning, we reject petitioner's second contention that some portion or all of those premiums may be excluded or deducted from petitioner's "gain from operations" under section 809.

The Commissioner determined that no portion of the cost of acquiring the blocks of cancellable accident and health policies was deductible. The petitioner argues that those costs are amortizable under section 1.167(a)-3 simply because the assets are wasting. On the authority of *International Life Insurance Co.*, 51 T.C. 765, 773 (1969), affd. per curiam 427 F.2d 137 (C.A. 6, 1970), we must reject petitioner's argument and hold for the Commissioner. Petitioner has not convinced us that that case is distinguishable or that it was incorrectly decided.

Decision will be entered for the respondent.

APPENDIX B

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

No. 75-1075

STANDARD LIFE & ACCIDENT INSURANCE COMPANY, APPELLANT

v.

COMMISSIONER OF INTERNAL REVENUE, APPELLEE

Appeal from the Judgment of the
United States Tax Court
(No. 4132-71)

Gene A. Castleberry, Oklahoma City, Oklahoma, for Appellant.

Meade Whitaker and Gary R. Allen, Attorneys, Tax Division, Department of Justice, Washington, D.C. (Scott P. Crampton, Assistant Attorney General, Washington, D. C., Gilbert E. Andrews and Bennet N. Hollander, Attorneys, Tax Division, Department of Justice, Washington, D.C., on the Brief) for Appellee.

Before HOLLOWAY, MCWILLIAMS and BARRETT, Circuit Judges.

BARRETT, Circuit Judge.

Standard Life & Accident Insurance Company (taxpayer) appeals a Tax Court decision [1] which upheld the Commissioner's deficiency determination against taxpayer for the years 1958, 1959 and 1961. A recitation of the pertinent facts, which were fully stipulated to, will facilitate our review.

Taxpayer, an Oklahoma corporation, is a life insurance company as defined by the Internal Revenue Code, 26 U.S.C.A. §§ 801-820. Taxpayer's operations are subject to regulations adopted by the Insurance Commissioner of Oklahoma. It is further subject to periodic audit by the National Association of Insurance Commissioners (NAIC), which acts on behalf of the insurance departments of the various states.

Taxpayer receives income in the form of premiums which are the agreed price for assuring and carrying a particular risk. The "gross premium" is the amount actually charged an insured. It includes the "net valuation premium" and "loading". The "net valuation premium" equals that sum of money necessary under applicable mortality tables to provide the benefits of the policy. This sum is required by Oklahoma law to be added to the policy reserve each year. "Loading" is that amount added to the "net valuation premium" for acquisition, management, and operating expenses, profits, and dividends.[2] Policyholders pay their premiums in semi-annual, quarterly, or monthly installments.

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[1] T.C. Memo, 1974-242, Filed September 18, 1974.

[2] Loading is based on an independent judgment of each company.

"Deferred premiums" are premiums due on policies with installment payments. They become due after December 31st of each calendar year but before the anniversary date of the policy. "Due and unpaid premiums" or "uncollected premiums" are premiums which are due and payable before the end of the year but which have not been paid. These policies have a 31-day grace period, or longer, for the payment of premiums, during which the policy is carried in full force and effect. *There is no obligation, legal or otherwise, on an insured to pay the insurer taxpayer deferred, due and unpaid or uncollected premiums. Non-payment merely causes the policy to lapse.*

Taxpayer is required by the State of Oklahoma and the NAIC to compute its reserves on the majority of its policies as though all premiums are paid up one year in advance of the policy's anniversary date, even though, in actuality, this is generally not the case. These reserves are treated as a liability to an insurance company and considered in making computations under 26 U.S.C.A. §§ 805 (assets) and 809 (gain from operations) of the Life Insurance Company Income Tax Act of 1959.

In filing its tax return for 1958 taxpayer did not include any amount of deferred and uncollected or due and unpaid premiums in computing its assets under Section 805. In filing its return for 1959 and 1961, taxpayer included in its assets only the net valuation premiums (loading was excluded) with respect to its deferred and uncollected and due and unpaid, premiums. Furthermore, in 1958, 1959 and

1961, taxpayer also claimed deductions for the increases in loading in computing its gains from operations under Section 809.

On October 31, 1957, taxpayer purchased a block of insurance policies from United Founders Life Insurance Company at a net cost of $219,524.21. Thereafter, taxpayer purchased a block of insurance policies from Commonwealth Life Insurance Company at a net cost of $247,098.22. On October 1, 1960 taxpayer also purchased a block of insurance policies from Great Western Life Insurance Company at a net cost of $77,280.29. On its respective returns, taxpayer deducted as expenses in the years paid, the current costs of the purchase of the blocks of insurance.

The Commissioner held that deferred and uncollected, and due and unpaid premiums must be included under Section 805 as assets and that none of said premiums may be deducted in determining gain from operations under Section 809. The Commissioner also ruled that no portion of the acquisition costs of the blocks of insurance bought in 1957, 1960 and 1961 was deductible.

On de novo review, the Tax Court relied upon Bankers Union Life Insurance Co., 62 T.C. 661 (1974), in holding that deferred and uncollected premiums and due and unpaid premiums must be considered assets and that the premiums could not be excluded from taxpayer's gain from operation under Section 809. The Tax Court relied upon International Life Insurance Co. v. Commissioner of Internal Reve-

nue, 51 T.C. 765, 773 (1969), affirmed per curiam, 427 F.2d 137 (6th Cir. 1970), in its holding that no portion of the cost of acquiring the blocks of cancellable accident and health policies was deductible.

On appeal, taxpayer presents three issues: (1) Whether unpaid premiums[3] and, a fortiori, loading portions thereof are not assets of a life insurance company; (2) Whether unpaid premiums are included in a life insurance company's underwriting income; and (3) Whether purchased blocks of cancellable accident and health insurance policies are wasting assets, the costs of which may be amortizable over their useful lives.

I.

Taxpayer contends that unpaid premiums and, a fortiori, the loading portions thereof, are not assets of a life insurance company, and accordingly should not be considered assets includable under 26 U.S.C.A. § 805. Taxpayer argues that previous cases have erroneously held that because unpaid premiums are included in *reserves*, giving rise to a *liability*, such premiums must also be included as an *asset* in computing a life insurance company's taxable investment income. Taxpayer recognizes authority contrary to its position, e.g. Franklin Life Insurance Company v. United States, 399 F.2d 757 (7th Cir. 1968), cert denied 393 U.S. 1118 (1969), Jefferson

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[3] Hereinafter, unless otherwise specifically noted, "unpaid premiums" will designate deferred and uncollected premiums and due and unpaid premiums.

Standard Life Insurance Company v. United States, 408 F.2d 842 (4th Cir. 1969), cert. denied 396 U.S. 828 (1969), Western National Life Insurance Company of Texas v. Commissioner of Internal Revenue, 432 F.2d 298 (5th Cir. 1970), and Western & Southern Life Insurance Company v. Commissioner of Internal Revenue, 460 F.2d 8 (6th Cir. 1972), cert. denied 409 U.S. 1063 (1972). Taxpayer argues that these decisions are in error because "courts have uniformly overlooked or failed to give sufficient thought to the fact a company cannot be required to include as assets funds which it does not have."

Taxpayer persuasively contends that although it is obligated to establish reserves for each of its policies, and that the reserves actually exist as a liability, the unpaid premiums do not exist until actually paid. Taxpayer pointedly observes that while the law requires the reserves, it does not require the payment of the premiums which generate the reserves.

The Commissioner of Internal Revenue (Commissioner) contends that the "Tax Court's determination that such premiums [unpaid] must be included in full in the company's "assets" for the purposes of computing its "taxable investment income" under Sections 804 and 805—and must similarly be taken into account in full, without offset or deduction for the loading thereon, in calculating gross premiums for the purpose of computing the company's "gain from operations" under Section 809, "is in accord with the pertinent Treasury Regulations and also with the decisions of the four courts of appeal that

have previously considered the questions presented herein."

In considering the cases supportive of the Commissioner's position, and recognized by taxpayer, *supra*, it is significant, we believe, that one of those courts acknowledged that declaring unpaid premiums to be assets was a fiction:

> The assumption that the annual premium has been received in full is, of course, a fiction, since annual premiums on all policies have not been received as of the end of the taxable year; rather, a portion thereof remains deferred and uncollected. [It being stipulated in our immediate case that there is no obligation, legal or otherwise, on an insured to pay—unpaid premiums.] Franklin Life Insurance Company, supra, 399 F.2d at 760-761.

It is abundantly clear that the other three courts concentrated on *uniformity in accounting for reserves* (which are required by state law) *and in accounting for unpaid premiums* (which the Commissioner contends must be considered in determining the income tax due) in upholding the imposition of higher taxes for the insurance companies involved, irrespective of the fact that they did not realize additional income:

> Thus, if taxpayer treats its reserve liabilities for tax purposes with a full year's net valuation —it should be required to include gross annual premiums . . .
>
> Jefferson Standard Life Insurance Co., supra, 408 F.2d at 856.

> We agree with the other two courts that once the accrual method is used [as for reserves as required by state law] it must be applied uniformly [to unpaid premiums] even though the result would be that the asset figure resulting from applying the accrual basis to the gross premiums would not balance with the policyholders' share of the "net valuation premiums" [giving rise to an inflated asset figure].
>
> Western National Life Insurance Company of Texas, supra, 432 F.2d at 301.
>
> Thus, if potential liability is to be accrued, [reserves as required by state law] we conclude that potential profitability [assets under the pertinent federal tax laws] must also be accrued. Western and Southern Life Insurance Company, supra, 460 F.2d at 10.

We are not persuaded that the decisions relied upon by the Commissioner are controlling. They are predicated on a fiction and a desire to achieve accounting uniformity. No distinction is accorded the fact that reserves are mandated by state law for the protection of the insured, whereas income taxes are, uniformly, owing on *income actually earned.* We do not impute to Congress the intention to impose an income tax burden in any instant when income is not realized. "Potential profitability" should not give rise to a tax.

The Commissioner contends that since the applicable Treasury Regulation, 1.805-5(a)(4)(ii) includes unpaid premiums as assets, and that since this regulation is "plainly within the applicable provisions of the code", it must be enforced. We disagree.

We have no argument with the Commissioner's contention that Treasury Regulations "must be sustained unless they are unreasonable or inconsistent with the underlying statute", citing to Commissioner of Internal Revenue v. South Texas Lumber Company, 333 U.S. 496 (1948). It is by reason of this rule that we hold that Treasury Regulation 1.805-5 (a)(4)(ii) is void insofar as it includes unpaid premiums within assets.

Section 805(b)(4) defines assets:

> (4) Assets. For purposes of this part, the term "assets" *means all assets of the company* (including non-admitted assets), other than real and personal property (excluding money) *used by it in carrying on an insurance trade or business.* For purposes of this paragraph, the amount attributable to—
>
> (A) real property and stock shall be the fair market thereof, and
>
> (B) any other asset shall be the adjusted basis (determined without regard to fair market value on December 31, 1958) of such asset for purposes of determining gain on sale or other disposition.
>
> (Emphasis supplied).

Regulation 1.805-5(a)(4)(ii) expands upon the items included within assets:

(ii) *Illustration of principles.* The provisions of subdivision (i) of this subparagraph may be illustrated by the following examples:

Example (1). Included in the statement of P., a life insurance company, are the following items: Bonds; stock; mortgages;—premiums deferred and uncollected and premiums due and unpaid, bank deposits,—.

Assets under Section 805(b)(4) includes "all assets of the company—used by it in carrying on an insurance trade or business." Under Section 805(b)(4)(B) the value of "any other asset" [exclusive of real property and stock set forth under Section 805(b)(4)(A)] shall be its "adjusted basis". Since the Commissioner has stipulated throughout[4] that taxpayer has no legal, enforceable right to collect any unpaid premiums, it is, as we view it, obvious that unpaid premiums are not "assets used by a company in carrying on a trade or business" and that they cannot have any viable "asset" basis until collected. We see no merit in attributing an artificial meaning to the word "asset" absent strong (and for our part, overwhelming) policy reasons for doing so. See Realty Loan Corporation v. Commissioner of Internal Revenue, 478 F.2d 1049 (9th Cir. 1973).

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[4] The tenth stipulation provides:

There is no obligation, legal or otherwise on an insured to pay to the insurer deferred & uncollected or due and unpaid premiums. If the policyholder does not pay the premium in conformity with the provisions of the policy, the policy is lapsed after the grace period and appropriate adjustments are made.

We hold that the regulation exceeds the scope of its statutory genesis. United States v. Correll, 389 U.S. 299 (1967). We hold it void insofar as it includes unpaid premiums as referred to herein (see footnote 3). We are comforted somewhat in the knowledge that our view was previously held by the Tax Court, which has vacillated considerably on this issue:

> —only resort to medieval metaphysics could translate the items in question [deferred and uncollected premiums] into "assets".
>
> Western National Life Insurance Company of Texas v. Commissioner, May 13, 1968.

The Commissioner further contends that since reserves must be accrued, unpaid premiums must likewise be accrued. We disagree. We have previously observed that reserves are set aside for the protection of the insured. Reserves are not discretionary. They are mandated by state insurance commissions. Income tax, on the other hand, is to be paid for income earned, when it is earned. We will not adopt the Commissioner's argument that "accounting symmetry" is necessary when, in doing so, we would endorse the imposition of income taxes before income has actually been earned. This we shall not do. Cf. Colorado Springs National Bank v. United States, 505 F.2d 1185 (10th Cir. 1974), wherein we held that compulsory accounting rules of a regulatory agency do not control tax consequences. For a similar holding see Mountain Fuel Supply Company v. United States, 449 F.2d 816 (10th Cir. 1971).

Applying the Commissioner's contentions and proposition to several other businesses, in our judgment, lays bare its fallacies. Under the Commissioner's theory a landlord, having entered into a one year lease, which included the right of either party to terminate upon thirty days notice, would have an asset for all the unpaid rentals, and an asset to be considered in determining the income tax to be paid by the landlord, even though the landlord has no guarantee of receiving all of the rental payments. Further pursuing the Commissioner's theory, a bank or any other business entity should consider its contingent accounts receivable, in which it has no legally enforceable right, as income for income tax purposes.

The burden is, of course, always on the taxpayer to establish that he is entitled to a particular deduction or refund. Lockhart Leasing Company v. United States, 446 F.2d 269 (10th Cir. 1971); Kasishke v. United States, 426 F.2d 429 (10th Cir. 1970); Harper Oil Company v. United States, 425 F.2d 1335 (10th Cir. 1970). And determinations of the Tax Court must be sustained if evidence is present to support them. Hayutin v. Commissioner of Internal Revenue, 508 F.2d 462 (10th Cir. 1974).

In light of the facts of this case, we hold that the taxpayer has met its burden and that the determinations of the Tax Court cannot be sustained. In Kansas Sand and Concrete, Inc. v. Commissioner of Internal Revenue, 462 F.2d 805 (10th Cir. 1972), we noted that which we deem applicable here:

> In passing we are compelled to observe that in this case the taxpayer proceeded in all good faith. We are cognizant of the difficulties confronting officials charged with the obligation of drafting tax regulations interpretive of and construing the complexities of the Internal Revenue Code. The conflicts presented in this case might well have been avoided had the administrative drafters raised at least one or more "red flags"—. Any taxpayer, we believe, is entitled to this much guidance and consideration.
>
> 462 F.2d at 808.

II.

Taxpayer also contends that unpaid premiums should not be considered part of premium income under Section 809(c)(1). We agree. For similar reasons already discussed in "I" relative to assets, "Premium income" cannot extend to unpaid premiums in which a taxpayer has no legally enforceable right. On a parallel vein, regulation 1.809-4(a)(1)(i) cannot extend to unpaid premiums in which a taxpayer does not have a legally enforceable right. We will not allow income taxes to be assessed on "potential profitability."

III.

Taxpayer contends that it should have been allowed to amortize blocks of cancellable accident and health insurance as wasting assets. Taxpayer cites Union Bankers Insurance Co. v. Commissioner, 64 T.C. No. 78 (August 6, 1975), for the proposition

that such blocks of insurance may be amortized over a given period of time. We agree.

However, in *Union Bankers* an actuary expert testified on behalf of the taxpayer affording background and expertise for the Court's benefit determinative of a definite amortizable time period. Contrary thereto, in the case at bar, the evidence simply [by stipulation] established when the blocks were acquired along with the premiums received and claims paid over a ten year schedule. Such evidence, in and of itself, does not meet the standard of *Union Bankers* in which the amortization period was established. We hold that the proof relative to any specific amortization period was inadequate and, notwithstanding the propriety and applicability of *Union Bankers* within the proper factual situation, taxpayer was not entitled to amortize its blocks of cancellable accident and health insurance policies. The Tax Court properly denied these deductions.

Reversed in part and affirmed in part.

McWILLIAMS, Circuit Judge, dissenting:

I dissent as to parts I and II in the majority opinion. The precise matter at issue in parts I and II has been considered by four other Circuits, and in each instance such Circuit has reached a conclusion contrary to the result reached by the majority in the instant case. I am persuaded that the result reached by the Fourth, Fifth, Sixth and Seventh Circuits is the proper one. *See* Western and Southern Life Insurance Company v. Commissioner, 460 F.2d 8 (6th

Cir. 1972), *cert denied*, 409 U.S. 1063 (1972); Western National Life Insurance Co. of Texas v. Commissioner, 432 F.2d 298 (5th Cir. 1970); Jefferson Standard Life Insurance Co. v. United States, 408 F.2d 842 (4th Cir. 1969), *cert. denied*, 396 U.S. 828 (1969); and Franklin Life Insurance Company v. United States, 399 F.2d 757 (7th Cir. 1968), *cert. denied*, 393 U.S. 1118 (1969).

APPENDIX C

UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

SEPTEMBER TERM—NOVEMBER 6, 1975

Before The Honorable William J. Holloway, Jr., The Honorable Robert H. McWilliams and The Honorable James E. Barrett, Circuit Judges

No. 75-1075
(Tax Ct. No. 4132-71)

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY,
PETITIONER-APPELLANT

vs.

COMMISSIONER OF INTERNAL REVENUE,
RESPONDENT-APPELLEE

This cause came on to be heard on the record on appeal from the United States Tax Court, and was argued by counsel.

Upon consideration whereof, it is ordered that the judgment of that court is reversed in so far as it upheld the Commissioner's ruling that deferred and uncollected, and due and unpaid premiums must be included under Section 805 as assets and that none of said premiums may be deducted in determining gain from operations under Section 809. The judgment of the Tax Court in disallowing amortization of appellant's block of cancellable accident and health insurance policies is affirmed.

The cause is remanded to the United States Tax Court for further proceedings in accordance with the opinion of this Court. McWilliams, Circuit Judge, dissents.

/s/ Howard K. Phillips
HOWARD K. PHILLIPS
Clerk

A true copy

Teste
HOWARD K. PHILLIPS
Clerk, U. S. Court of Appeals
Tenth Circuit

/s/ Mary A. Sherman
Deputy Clerk

APPENDIX D

UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

NOVEMBER TERM—JANUARY 9, 1976

Before The Honorable David T. Lewis, Chief Judge, The Honorable Delmas C. Hill, The Honorable Oliver Seth, The Honorable William J. Holloway, Jr., The Honorable Robert H. McWilliams, The Honorable James E. Barrett, and The Honorable William E. Doyle, Circuit Judges

No. 75-1075

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY,
PETITIONER-APPELLANT

vs.

COMMISSIONER OF INTERNAL REVENUE,
RESPONDENT-APPELLEE

This matter comes on for consideration of the petition for rehearing with suggestion for rehearing en banc which was filed by the appellee in the captioned cause.

Upon consideration whereof, it is ordered that the petition for rehearing is denied by Circuit Judges Holloway and Barrett. Judge McWilliams would grant rehearing.

The petition for rehearing having been denied by the original panel to whom the case was submitted, and no member of the panel nor judge in regular

active service on the Court having requested that the Court be polled on rehearing en banc, Rule 35, Federal Rules of Appellate Procedure, the suggestion for rehearing en banc is denied.

/s/ Howard K. Phillips
HOWARD K. PHILLIPS
Clerk

A true copy

Teste
HOWARD K. PHILLIPS
Clerk, U. S. Court of Appeals
Tenth Circuit

/s/ Mary A. Sherman
Deputy Clerk

APPENDIX E

Internal Revenue Code of 1954 (26 U.S.C. (1958 ed., Supp. II)):

SEC. 801 [as added by Sec. 2(a), Life Insurance Company Income Tax Act of 1959, P.L. 86-69, 73 Stat. 112]. DEFINITION OF LIFE INSURANCE COMPANY.

* * * * *

(b) *Life Insurance Reserves Defined.*—

(1) *In general.*—For purposes of this part, the term "life insurance reserves" means amounts—

(A) which are computed or estimated on the basis of recognized mortality or morbidity tables and assumed rates of interest, and

(B) which are set aside to mature or liquidate, either by payment or reinsurance, future unaccrued claims arising from life insurance, annuity, and noncancellable health and accident insurance contracts (including life insurance or annuity contracts combined with noncancellable health and accident insurance) involving, at the time with respect to which the reserve is computed, life, health, or accident contingencies.

(2) *Reserves must be required by law.*—Except—

(A) in the case of policies covering life, health, and accident insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancellation,

(B) in the case of policies issued by an organization which meets the requirements of section 501(c)(9) other than the requirement of subparagraph (B) thereof, and

(C) as provided in paragraph (3),

in addition to the requirements set forth in paragraph (1), life insurance reserves must be required by law.

* * * * *

SEC. 802 [as added by Sec. 2(a), Life Insurance Company Income Tax Act of 1959, *supra*]. TAX IMPOSED.

(a) *Tax Imposed.*—

(1) *In General.*—A tax is hereby imposed for each taxable year beginning after December 31, 1957, on the life insurance company taxable income of every life insurance company. Such tax shall consist of—

(A) a normal tax on such income computed at the rate provided by section 11(b), and

(B) a surtax, on so much of such income as exceeds $25,000, computed at the rate provided by section 11(c).

* * * * *

(b) *Life Insurance Company Taxable Income Defined.*—For purposes of this part, the term "life insurance company taxable income" means the sum of—

(1) the taxable investment income (as defined in section 804) or, if smaller, the

gain from operations (as defined in section 809),

(2) if the gain from operations exceeds the taxable investment income, an amount equal to 50 percent of such excess, plus

(3) the amount subtracted from the policyholders surplus account for the taxable year, as determined under section 815.

SEC. 804 [as added by Sec. 2(a), Life Insurance Company Income Tax Act of 1959, *supra*]. TAXABLE INVESTMENT INCOME.

(a) *In General.*—

(1) *Exclusion of policyholders' share of investment yield.*—The policyholders' share of each and every item of investment yield (including tax-exempt interest, partially tax-exempt interest, and dividends received) of any life insurance company shall not be included in taxable investment income. For purposes of the preceding sentence, the policyholders' share of any item shall be that percentage obtained by dividing the policy and other contract liability requirements by the investment yield; except that if the policy and other contract liability requirements exceed the investment yield, then the policyholders' share of any item shall be 100 percent.

(2) *Taxable investment income defined.*—For purposes of this part, the taxable investment income for any taxable year shall be an amount (not less than zero) equal to the sum of the

life insurance company's share of each and every item of investment yield (including tax-exempt interest, partially tax-exempt interest, and dividends received), reduced by—

(A) the sum of—

(i) the life insurance company's share of interest which under section 103 is excluded from gross income,

(ii) the deduction for partially tax-exempt interest provided by section 242 (as modified by paragraph (3)) computed with respect to the life insurance company's share of such interest, and

(iii) the deductions for dividends received provided by sections 243, 244, and 245 (as modified by paragraph (5)) computed with respect to the life insurance company's share of the dividends received; and

(B) the small business deduction provided by paragraph (4).

For purposes of the preceding sentence, the life insurance company's share of any item shall be that percentage which, when added to the percentage obtained under the second sentence of paragraph (1), equals 100 percent.

* * * * *

(b) *Gross Investment Income.*—For purposes of this part, the term "gross investment income" means the sum of the following:

(1) *Interest, etc.*—The gross amount of income from—

(A) interest, dividends, rents, and royalties,

(B) the entering into of any lease, mortgage, or other instrument or agreement from which the life insurance company derives interest, rents, or royalties, and

(C) the alteration or termination of any instrument or agreement described in subparagraph (B).

(2) *Short-term capital gain.*—In the case of a taxable year beginning after December 31, 1958, the amount (if any) by which the net short-term capital gain exceeds the net long-term capital loss.

(3) *Trade or business income.*—The gross income from any trade or business (other than an insurance business) carried on by the insurance company, or by a partnership of which the life insurance company is a partner. In computing gross income under this paragraph, there shall be excluded any item described in paragraph (1).

Except as provided in paragraph (2), in computing gross investment income under this subsection, there shall be excluded any gain from the sale or exchange of a capital asset, and any gain considered as gain from the sale or exchange of a capital asset.

(c) *Investment Yield Defined.*—For purposes of this part, the term "investment yield" means the gross investment income less the following deductions—

(1) *Investment expenses.* — Investment expenses for the taxable year. If any general expenses are in part assigned to or included in the investment expenses, the total deduction under this paragraph shall not exceed the sum of—

(A) one-fourth of one percent of the mean of the assets (as defined in section 805(b)(4)) held at the beginning and end of the taxable year,

(B) the amount of the mortgage service fees for the taxable year, plus

(C) whichever of the following is the greater:

(i) one-fourth of the amount by which the investment yield (computed without any deduction for investment expenses allowed by this paragraph) exceeds 3¾ percent of the mean of the assets (as defined in section 805(b)(4)) held at the beginning and end of the taxable year, reduced by the amount described in subparagraph (B), or

(ii) one-fourth of one percent of the mean of the value of mortgages held at the beginning and end of the taxable year for which there are no mortgage service fees for the taxable year.

(2) *Real estate expenses.*—The amount of taxes (as provided in section 164), and other expenses, for the taxable year exclusively on or with respect to the real estate owned by the company. No deduction

shall be allowed under this paragraph for any amount paid out for new buildings, or for permanent improvements or betterments made to increase the value of any property.

(3) *Depreciation.*—The deduction allowed by section 167. The deduction under this paragraph and paragraph (2) on account of any real estate owned and occupied for insurance purposes in whole or in part by a life insurance company shall be limited to an amount which bears the same ratio to such deduction (computed without regard to this sentence) as the rental value of the space not so occupied bears to the rental value of the entire property.

(4) *Depletion.*—The deduction allowed by section 611 (relating to depletion).

(5) *Trade or business deductions.*—The deductions allowed by this subtitle (without regard to this part) which are attributable to any trade or business (other than an insurance business) carried on by the life insurance company, or by a partnership of which the life insurance company is a partner; except that in computing the deduction under this paragraph—

(A) There shall be excluded losses—

(i) from (or considered as from) sales or exchanges of capital assets,

(ii) from sales or exchanges of property used in the trade or business (as defined in section 1231(b)), and

(iii) from the compulsory or involuntary conversion (as a result of

destruction, in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof) of property used in the trade or business (as so defined).

(B) Any item, to the extent attributable to the carrying on of the insurance business, shall not be taken into account.

(C) The deduction for net operating losses provided in section 172, and the special deductions for corporations provided in part VIII of subchapter B, shall not be allowed.

SEC. 805 [as added by Sec. 2(a), Life Insurance Company Income Tax Act of 1959, *supra*]. POLICY AND OTHER CONTRACT LIABILITY REQUIREMENTS.

(a) *In General.*—For purposes of this part, the term "policy and other contract liability requirements" means, for any taxable year, the sum of—

(1) the adjusted life insurance reserves, multiplied by the adjusted reserves rate,

(2) the mean of the pension plan reserves at the beginning and end of the taxable year, multiplied by the current earnings rate, and

(3) the interest paid.

(b) *Adjusted Reserves Rate and Earnings Rates.*—

(1) *Adjusted reserves rate.*—For purposes of this part, the adjusted reserves

rate for any taxable year is the average earnings rate or, if lower, the current earnings rate.

(2) *Current earnings rate.*—For purposes of this part, the current earnings rate for any taxable year is the amount determined by dividing—

(A) the taxpayer's investment yield for such taxable year, by

(B) the mean of the taxpayer's assets at the beginning and end of the taxable year.

(3) *Average earnings rate.*—

(A) *In general.*—For purposes of this part, the average earnings rate for any taxable year is the average of the current earnings rates for such taxable year and for each of the 4 taxable years immediately preceding such taxable year (excluding any of such 4 taxable years for which the taxpayer was not an insurance company).

(B) *Special rules.*—For purposes of subparagraph (A)—

(i) the current earnings rate for any taxable year beginning before January 1, 1958, shall be determined as if this part (as in effect for 1958) and section 381(c)(22) applied to such taxable year, and

(ii) the current earnings rate for any taxable year of any company which, for such year, is an insurance company (but not a life insurance company) shall be determined as if this part applied to such company for such year.

(4) *Assets.*—For purposes of this part, the term "assets" means all assets of the company (including nonadmitted assets), other than real and personal property (excluding money) used by it in carrying on an insurance trade or business. For purposes of this paragraph, the amount attributable to—

(A) real property and stock shall be the fair market value thereof, and

(B) any other asset shall be the adjusted basis (determined without regard to fair market value on December 31, 1958) of such asset for purposes of determining gain on sale or other disposition.

(c) *Adjusted Life Insurance Reserves.*—

(1) *Adjusted life insurance reserves defined.*—For purposes of this part, the term "adjusted life insurance reserves" means—

(A) the mean of the life insurance reserves (as defined in section 801(b)), other than pension plan reserves, at the beginning and end of the taxable year, multiplied by

(B) that percentage which equals 100 percent—

(i) increased by that percentage which is 10 times the average rate

of interest assumed by the taxpayer in calculating such reserves, and

(ii) reduced by that percentage which is 10 times the adjusted reserves rate.

(2) *Average interest rate assumed.*—For purposes of this part, the average rate of interest assumed in calculating reserves shall be computed—

(A) by multiplying each assumed rate of interest by the means of the amounts of such reserves computed at that rate at the beginning and end of the taxable year, and

(B) by dividing (i) the sum of the products ascertained under subparagraph (A), by (ii) the mean of the total of such reserves at the beginning and end of the taxable year.

* * * * *

SEC. 809 [as added by Sec. 2(a), Life Insurance Company Income Tax Act of 1959, *supra*]. IN GENERAL.

(a) *Exclusion of Share of Investment Yield Set Aside for Policyholders*—

(1) *Amount.*—The share of each and every item of investment yield (including tax-exempt interest, partially tax-exempt interest, and dividends received of any life insurance company set aside for policyholders shall not be included in gain or loss from operations. For purposes of the preceding sentence, the share of any item set

aside for policyholders shall be that percentage obtained by dividing the required interest by the investment yield; except that if the required interest exceeds the investment yield, then the share of any item set aside for policyholders shall be 100 percent.

(2) *Required interest.*—For purposes of this part, the required interest for any taxable year is the sum of the products obtained by multiplying—

(A) each rate of interest required, or assumed by the taxpayer, in calculating the reserves described in section 810(c), by

(B) the means of the amount of such reserves computed at that rate at the beginning and end of the taxable year.

(b) *Gain and Loss From Operations.*—

(1) *Gain from operations defined.*—For purposes of this part, the term "gain from operations" means the amount by which the sum of the following exceeds the deductions provided by subsection (d):

(A) the life insurance company's share of each and every item of investment yield (including tax-exempt interest, partially tax-exempt interest, and dividends received); and

(B) the sum of the items referred to in subsection (c).

(2) *Loss from operations defined.*—For purposes of this part, the term "loss from

operations" means the amount by which the sum of the deductions provided by subsection (d) exceeds the sum of—

(A) the life insurance company's share of each and every item of investment yield (including tax-exempt interest, partially tax-exempt interest, and dividends received); and

(B) the sum of the items referred to in subsection (c).

(3) *Life insurance company's share.*—For purposes of this subpart, the life insurance company's share of any item shall be that percentage which, when added to the percentage obtained under the second sentence of subsection (a)(1), equals 100 percent.

(4) *Exception.*—If it is established in any case that the application of the definition of gain from operations contained in paragraph (1) results in the imposition of tax on—

(A) any interest which under section 103 is excluded from gross income,

(B) any amount of interest which under section 242 (as modified by section 804(a)(3)) is allowable as a deduction, or

(C) any amount of dividends received which under sections 243, 244, and 245 (as modified by subsection (d)(8)(B)) is allowable as a deduction,

adjustment shall be made to the extent necessary to prevent such imposition.

(c) *Gross Amount.*—For purposes of subsections (b)(1) and (2), the following items shall be taken into account:

(1) *Premiums.*—The gross amount of premiums and other consideration (including advance premiums, deposits, fees, assessments, and consideration in respect of assuming liabilities under contracts not issued by the taxpayer) on insurance and annuity contracts (including contracts supplementary thereto); less return premiums, and premiums and other consideration arising out of reinsurance ceded. Except in the case of amounts of premiums or other consideration returned to another life insurance company in respect of reinsurance ceded, amounts returned where the amount is not fixed in the contract but depends on the experience of the company or the discretion of the management shall not be included in return premiums.

(2) *Decreases in certain reserves.*—Each net decrease in reserves which is required by section 810 or 811(b)(2) to be taken into account for purposes of this paragraph.

(3) *Other amounts.*—All amounts, not included in computing investment yield and not includible under paragraph (1) or (2), which under this subtitle are includible in gross income.

Except as included in computing investment yield, there shall be excluded any gain from the

sale or exchange of a capital asset, and any gain considered as gain from the sale or exchange of a capital asset.

(d) *Deductions.*—For purposes of subsections (b)(1) and (2), there shall be allowed the following deductions:

(1) *Death benefits, etc.*—All claims and benefits accrued, and all losses incurred (whether or not ascertained), during the taxable year on insurance and annuity contracts (including contracts supplementary thereto).

(2) *Increases in certain reserves.*—The net increase in reserves which is required by section 810 to be taken into account for purposes of this paragraph.

(3) *Dividends to policyholders.*—The deduction for dividends to policyholders (determined under section 811(b)).

(4) *Operations loss deduction:*—The operations loss deduction (determined under section 812).

(5) *Certain nonparticipating contracts.*—An amount equal to 10 percent of the increase for the taxable year in the reserves for nonparticipating contracts or (if greater) an amount equal to 3 percent of the premiums for the taxable year (excluding that portion of the premiums which is allocable to annuity features) attributable to nonparticipating contracts (other than group contracts) which are issued or renewed for periods of 5 years or more. For purposes of this paragraph, the term "reserves for nonparticipating contracts" means

such part of the life insurance reserves (excluding that portion of the reserves which is allocable to annuity features) as relates to nonparticipating contracts (other than group contracts). For purposes of this paragraph and paragraph (6), the term "premiums" means the net amount of the premiums and other consideration taken into account under subsection (c)(1).

(6) *Group life, accident, and health insurance.*—An amount equal to 2 percent of the premiums for the taxable year attributable to group life insurance contracts and group accident and health insurance contracts. The deduction under this paragraph for the taxable year and all preceding taxable years shall not exceed an amount equal to 50 percent of the premiums for the taxable year attributable to such contracts.

(7) *Assumption by another person of liabilities under insurance, etc., contracts.*—The consideration (other than consideration arising out of reinsurance ceded) in respect of the assumption by another person of liabilities under insurance and annuity contracts (including contracts supplementary thereto).

(8) *Tax-exempt interest, dividends, etc.*—

(A) *Life insurance company's share.*—Each of the following items:

(i) the life insurance company's share of interest which under section 103 is excluded from gross income,

(ii) the deduction for partially

tax-exempt interest provided by section 242 (as modified by section 804 (a)(3)) computed with respect to the life insurance company's share of such interest, and

(iii) the deductions for dividends received provided by sections 243, 244, and 245 (as modified by subparagraph (B)) computed with respect to the life insurance company's share of the dividends received.

(B) *Application of Section 246(b).*—In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of subparagraph (A)(iii), the limit on the aggregate amount of the deductions allowed by sections 243 (a), 244, and 245 shall be 85 percent of the gain from operations computed without regard to—

(i) the deductions provided by paragraphs (3), (5), and 6 of this subsection,

(ii) the operations loss deduction provided by section 812, and

(iii) the deductions allowed by sections 243(a), 244, and 245,

but such limit shall not apply for any taxable year for which there is a loss from operations.

(9) *Investment expenses, etc.*—Investment expenses to the extent not allowed as a deduction under section 804(c)(1) in

computing investment yield, and the amount (if any) by which the sum of the deductions allowable under section 804(c) exceeds the gross investment income.

(10) *Small business deduction.*—A small business deduction in an amount equal to the amount determined under section 804 (a)(4).

(11) *Certain mutualization distributions.*—The amount of distributions to shareholders made in 1958 and 1959 in acquisition of stock pursuant to a plan of mutualization adopted before January 1, 1958.

(12) *Other deductions.*—Subject to the modifications provided by subsection (e), all other deductions allowed under this subtitle for purposes of computing taxable income to the extent not allowed as deductions in computing investment yield.

* * * * *

SEC. 810 [as added by Sec. 2(a), Life Insurance Company Income Tax Act of 1959, *supra*]. RULES FOR CERTAIN RESERVES.

(a) *Adjustment for Decrease.*—If the sum of the items described in subsection (c) as of the beginning of the taxable year exceeds the sum of such items as of the close of the taxable year (reduced by the amount of investment yield not included in gain or loss from operations for the taxable year by reason of section 809(a)(1)), the excess shall be taken into account as a net decrease referred to in section 809(c)(2).

(b) *Adjustment for Increase.*—If the sum of the items described in subsection (c) as of the

close of the taxable year (reduced by the amount of investment yield not included in gain or loss from operations for the taxable year by reason of section 809(a)(1)) exceeds the sum of such items as of the beginning of the taxable year, the excess shall be taken into account as a net increase referred to in section 809(d)(2).

(c) *Items Taken Into Account.*—The items referred to in subsections (a) and (b) are as follows:

(1) The life insurance reserves (as defined in section 801(b)).

(2) The unearned premiums and unpaid losses included in total reserves under section 801(c)(2).

(3) The amounts (discounted at the rates of interest assumed by the company) necessary to satisfy the obligations under insurance or annuity contracts (including contracts supplementary thereto), but only if such obligations do not involve (at the time with respect to which the computation is made under this paragraph) life, health, or accident contingencies.

(4) Dividend accumulations, and other amounts, held at interest in connection with insurance or annuity contracts (including contracts supplementary thereto).

(5) Premiums received in advance, and liabilities for premium deposit funds.

* * * * *

SEC. 818 [as added by Sec. 2(a), Life Insurance Company Income Tax Act of 1959, *supra*]. ACCOUNTING PROVISIONS.

(a) *Method of Accounting.*—All computations entering into the determination of the taxes imposed by this part shall be made—

(1) under an accrual method of accounting, or

(2) to the extent permitted under regulations prescribed by the Secretary or his delegate, under a combination of an accrual method of accounting with any other method permitted by this chapter (other than the cash receipts and disbursements method).

Except as provided in the preceding sentence, all such computations shall be made in a manner consistent with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners.

* * * * *

(f) *Denial of Double Deductions.*—Nothing in this part shall permit the same item to be deducted more than once under subpart B and once under subpart C.

Treasury Regulations on Income Tax (1954 Code) (26 C.F.R.):

§ 1.801-4 *Life insurance reserves.*

* * * * *

(f) *Adjustments to life insurance reserves.* In the event it is determined on the basis of the facts of a particular case that premiums deferred and uncollected and premiums due and unpaid are not properly accruable for the taxable year under section 809 and, accordingly, are not properly includible under assets (as defined in section 805(b)(4)) for the taxable year,

appropriate reduction shall be made in the life insurance reserves. This reduction shall be made when the insurance company has calculated life insurance reserves on the assumption that the premiums on all policies are paid annually or that all premiums due on or prior to the date of the annual statement have been paid.

§ 1.805-5 *Adjusted reserves rate and earnings rates.*

(a) *In general.* * * *

* * * * *

(4) *Assets*—(i) *Definition.* Section 805 (b)(4) defines the term "assets" as meaning all assets of the life insurance company (including nonadmitted assets), other than real and personal property (excluding money) used by the life insurance company in carrying on an insurance trade or business. For purposes of the preceding sentence, the term "money" includes cash, currency, bank deposits (including time deposits) whether or not interest bearing, share accounts in savings and loan associations, checks (whether or not certified), drafts, money orders, and any other item of similar nature. * * *

* * * * *

(ii) *Illustration of principles.* The provisions of subdivision (i) of this subparagraph may be illustrated by the following examples:

Example (1). Included in the statement of assets of P, a life insurance company, are the following items: Bonds, stocks,

mortgages, home office and branch office buildings owned and wholly occupied by the company, furniture and equipment owned by the company and used in the home office and branch office buildings occupied by the company, agents' debit balances, premiums deferred and uncollected and premiums due and unpaid, bank deposits (including time deposits), and share accounts in savings and loan associations. For purposes of section 805(b)(4) and this subparagraph, the home office and branch office buildings owned and wholly occupied by the company, and the furniture and equipment owned by the company and used by it in connection with the operations conducted in the home office and branch office buildings occupied by the company, shall be excluded from the term "assets" since such items are the only ones considered as being used by P in carrying on an insurance trade or business. Accordingly, since bonds, stocks, mortgages, agents' debit balances, premiums deferred and uncollected and premiums due and unpaid, bank deposits (including time deposits), and share accounts in savings and loan associations are not considered as being used by P in carrying on an insurance trade or business, they are included within the term "assets" and, therefore, shall be taken into account by P in determining its current earnings rate.

* * * * *

§ 1.809-4 *Gross amount.*

(a) *Items taken into account.* For purposes of determining gain or loss from operations under section 809(b)(1) and (2), respectively, section 809(c) specifies three categories of items which shall be taken into account. Such items are in addition to the life insurance company's share of the investment yield (as determined under section 809(a)(1) paragraph (c) of § 1.809-2), * * *. The additional three categories of items taken into account are:

(1) *Premiums.* (i) The gross amount of all premiums and other consideration on insurance and annuity contracts (including contracts supplementary thereto); less return premiums and premiums and other consideration arising out of reinsurance ceded. The term "gross amount of all premiums" means the premiums and other consideration provided in the insurance or annuity contract. Thus, the amount to be taken into account shall be the total of the premiums and other consideration provided in the insurance or annuity contract without any deduction for commissions, return premiums, reinsurance, dividends to policyholders, dividends left on deposit with the company, discounts on premiums paid in advance, interest applied in reduction of premiums (whether or not required to be credited in reduction of premiums under the terms of the contract), or any other item of similar nature. Such term includes advance premiums, premiums deferred and uncollected and premiums due and unpaid,

deposits, fees, assessments, and consideration in respect of assuming liabilities under contracts not issued by the taxpayer (such as a payment or transfer of property in an assumption reinsurance transaction as defined in paragraph (a)(7)(ii) of § 1.809-5). The term also includes amounts a life insurance company charges itself representing premiums with respect to liability for insurance and annuity benefits for its employees (including full-time life insurance salesmen within the meaning of section 7701 (a)(20)).

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Supreme Court, U. S.
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DEC 21 1976
MICHAEL RODAK, JR., CLERK

APPENDIX

IN THE
Supreme Court of the United States
OCTOBER TERM, 1976

No. 75-1771

COMMISSIONER OF INTERNAL REVENUE,
Petitioner

—v.—

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE TENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI FILED JUNE 4, 1976
CERTIORARI GRANTED OCTOBER 4, 1976

IN THE

Supreme Court of the United States

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COMMISSIONER OF INTERNAL REVENUE,
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STANDARD LIFE & ACCIDENT INSURANCE COMPANY

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TAX COURT OF THE UNITED STATES
GENERAL DOCKET

Docket No. 4132-71

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY, 421 N.W. 13th Street, Oklahoma City, Okla, 73103, (T. A. Surdick, Vice President), PETITIONER,

vs.

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT.

APPEARANCES FOR PETITIONER: Gene A. Castleberry, Castleberry & Lisle, 1100 City National Bank Tower, Oklahoma City, Okla., 73102.

Date Month Day Year	Filings and Proceedings
June 18, 1971	PETITION FILED: FEE PAID June 18, 1971. Served: June 22, 1971.
June 18, 1971	REQUEST by Petr. for trial at Oklahoma City, Okla. Action: GRANTED June 22, 1971. Served: June 22, 1971.
Aug. 20, 1971	MOTION by Resp. to extend time to Oct. 22, 1971 within which to file Answer. Action: GRANTED Aug. 25, 1971. Served: Aug. 25, 1971.
Oct. 12, 1971	ANSWER filed by Resp. Served: Oct. 13, 1971.
Aug. 3, 1973	Notice of Trial at Oklahoma City, Okla. on Nov. 5, 1973. Served: Aug. 3, 1973.
Nov. 5, 1973	TRIAL at Oklahoma City, Okla. before Judge Goffe. Stip of facts with exhibits A thru L. Supplemental Stip of facts. ORIGINAL BRIEFS DUE: Jan. 4, 1974. REPLY BRIEFS DUE: Feb. 20, 1974. SUBMITTED: JUDGE GOFFE.
Nov. 21, 1973	TRANSCRIPT of Nov. 5, 1973 rec'd.

Date			Filings and Proceedings
Month	Day	Year	

Dec. 20, 1973 JOINT MOTION to extend time to Feb. 4, 1974 within which to file brief. Action: GRANTED Dec. 28, 1973. Served: Jan. 2, 1974.

Jan. 28, 1974 JOINT MOTION to extend time to February 19, 1974 within which to file Briefs. Action: GRANTED Jan. 29, 1974. Served: Jan. 30, 1974.

Feb. 1. 1974 JOINT MOTION FOR LEAVE TO FILE Amendment to Stipulation of Facts. (Amendment to Stipulation of Facts Lodged). Action: GRANTED Feb. 6, 1974. Served: Feb. 7, 1974.

Feb. 6, 1974 AMENDMENT TO STIPULATION OF FACTS FILED.

Feb. 19, 1974 BRIEF for Resp. filed.

Feb. 22, 1974 MOTION by Petr. to extend time to March 5, 1974 within which to file brief. (No Obj. Resp.). Action: GRANTED Feb. 26, 1974. Served: Feb. 26, 1974.

March 7, 1974 BRIEF for Petitioner filed. (timely post-marked). Served: Mar. 7, 1974.

April 22, 1974 REPLY BRIEF for Respondent filed. Served: Apr. 23, 1974.

Apr. 23, 1974 REPLY BRIEF for Petr. filed. T.P. Served: Apr. 23, 1974.

April 25, 1974 ORDER that this case is reassigned from Judge Goffe to Judge Norman O. Tietjens for disposition. Served: Apr. 25, 1974.

Sept. 18, 1974 MEMORANDUM OPINION filed, Judge Tietjens. Decision will be entered for the respondent. Served: Sep. 18, 1974.

Sept. 20, 1974 DECISION entered, Judge Tietjens. Served: Sept. 20, 1974.

Date			Filings and Proceedings
Month	Day	Year	

APPELLATE PROCEEDINGS

Dec. 12, 1974 NOTICE of Appeal to U.S.C.A., 10th Cir., filed by Petr. Served: Dec. 13, 1974.

Dec. 13, 1974 NOTICE OF Filing with copy of notice of appeal sent to Mr. Meade Whitaker, Chief Counsel. Served: Dec. 13, 1974.

Dec. 13, 1974 NOTICE, to parties, of assembling and date for transmission of the record. Served: Dec. 13, 1974.

Dec. 13, 1974 Certified copy of notice of appeal mailed to Clerk, 10th Cir.

UNITED STATES TAX COURT

Docket No. 4132-71

[Filed June 18, 1971, 11:45 A.M., United States Tax Court]

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY, PETITIONER

v.

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

PETITION

The above named petitioner hereby petitions for a redetermination of the deficiency set forth by the Commissioner of Internal Revenue in his notice of deficiency dated March 11, 1971, and as a basis for its case alleges as follows:

1. The petitioner is a corporation organized under the laws of the State of Oklahoma with its principal place of business at 421 Northwest 13th Street, Oklahoma City, Oklahoma. The returns for the periods involved were filed with the District Director of the Internal Revenue, Oklahoma City, Oklahoma.

2. The notice of deficiency, a copy of which is attached and marked Exhibit A, was mailed to the petitioner March 11, 1971.

3. The deficiency, as determined by the Commissioner, is for income tax and penalties for the following years, in the following amounts:

Tax Year Ended	Deficiency	Sec. 6653(a) Penalty
December 31, 1958	$25,974.93	$1,298.75
December 31, 1959	90,647.02	4,532.35
December 31, 1961	34,986.04	1,749.30

4. The determination of tax and penalty set forth in said notice of deficiency is based on the following errors:

(a) The Commissioner erred in refusing to allow the petitioner to exclude deferred and uncollected premiums from income or, alternatively, to take into account the increase (decrease) in loading on deferred and uncollected premiums as deductions (income) in the amounts and for the years indicated in computing its life insurance company taxable income:

1958	$65,308	1960	$(140,372)
1959	301,252	1961	72,139

(b) The Commissioner erred in refusing to allow the petitioner its claimed deductions for amortization of the cost of acquired business, as follows:

Acquired from	Date	Cost
United Founders Life Ins. Co.	10/31/57	$219,524.21
Commonwealth Life Ins. Co.	4/ 1/58	247,098.22
Great Western Life Ins. Co.	10/ 1/60	77,280.29

(c) The Commissioner erred in refusing to allow the petitioner to exclude from assets, within the meaning of 1954 Code Section 805(b)(4), the following items and amounts for the years indicated:

Item	1957	1958	1959	1960	1961
Deferred & uncollected premiums	$621,413	$834,331	$1,314,987	$1,570,193	$1,572,763
Due & unpaid premiums	118,047	266,323	253,318	232,651	231,969
Agent's balances	116,708	170,945	215,306	329,381	409,003

(d) The Commissioner erred in determining that any portion of the asserted deficiency was due to negligence or the intentional disregard of federal income tax laws.

5. The facts upon which the petitioner relies are as follows:

(a) Petitioner is a stock life insurance company organized and existing under the laws of the State of Oklahoma. Its operations and accounts are subject to the supervision and approval of the Insur-

ance Commissioner of the State of Oklahoma and, because it does business in numerous states, it is subject to periodic audit of its accounts by the National Association of Insurance Commissioners ("NAIC"), which acts on behalf of the insurance departments of the various states.

In life insurance, premiums are the agreed price for assuming and carrying the risk. The gross premium is the amount actually charged the insured and is composed of the net valuation premium and "loading." The net valuation premium on a particular policy is that amount of money which, using the mortality table and interest rate assumed for the policy, will be exactly sufficient to provide the benefits of the policy and is required by state law to be added to the policy reserve each year. "Loading" refers to an amount added to the net valuation premium for estimated acquisition, administration, management, and operating expenses, contingencies, profits in the case of capital stock companies, and dividends in the case of mutual companies. The amount of "loading" results from an independent judgment of each particular company and may vary from company to company. Policyholders may pay premiums in semiannual, quarterly, or monthly installments. An additional amount is added when an installment method of paying the premium is elected.

"Deferred and uncollected premiums" are the premiums on policies with premiums payable more often than annually which become due after December 31 of the calendar year and before the next policy anniversary date.

"Due and unpaid premiums" are premiums which are due to be paid before the end of the year, but which have not been paid by December 31. As required by law, all policies provide for a 31-day grace period or longer for the payment of premiums after their due date, durirg which period the policy is carried in full force and effect.

In the case of accident and health insurance policies (hereinafter referred to as "A&H policies") there is no monetarily significant portion of the premium allocable to contingencies beyond the term covered by the premium. The periodic premium payments on A&H policies are for the ensuing period represented by the premium paid (whether monthly, quarterly, or semiannually). Each premium amount, paid in advance, is designed and calculated to cover the risk for the period insured. To illustrate: a typical whole life policy reserve must provide for the inevitability of the insured's death. In addition to the possibility that the insured may die within the current policy year, there is the certainty that he will die someday. Therefore, the current premium and the established reserve must provide for both the current possibility and the future certainty. In the case of an A&H premium, only the current possibility is of real consequence and that is covered by the premium which is paid in advance. This is evidenced by the fact that only an "unearned premium reserve" is established for A&H policies. The unearned premium reserve is comprised of A&H premium payments received for future periods of coverage. Thus, as an insured is currently protected under a policy, the current portion of his premium becomes "earned" and is subtracted from the unearned premium reserve.

Further, the loading and risk factors are not separately computed in advance. This is primarily due to the fact that morbidity tables showing the frequency of accident and sickness claims are not nearly as precise as mortality tables showing life expectancy. An insurance company can only roughly project the claims which will occur in A&H business. Consequently, the company is not able to determine in advance the portion of the A&H premium which represents the risk element and is, therefore, unable to determine that portion attributable to loading. Rather, the practice is to review the block of

A&H business periodically and to make the determination of what portion, if any, of the A&H premiums which have been received may be available for overhead and profit.

Therefore, for purposes of distinguishing types of premiums involved, "deferred and uncollected" premiums will refer to life policy premiums whether, technically "deferred and uncollected" or "due and unpaid." The "due and unpaid" designation will refer to A&H premiums which are past due but within the grace period at the close of the petitioner's taxable (calendar) year.

There is no obligation, legal or otherwise, on an insured to pay to the insurer deferred and uncollected or due and unpaid premiums. If the policyholder does not pay the premium in conformity with the provisions of the policy, the policy is lapsed after the grace period and appropriate adjustments are made.

Petitioner was required by the State of Oklahoma and by the NAIC to compute its reserves on the great majority of its life insurance policies on the assumption that premiums were paid up one year in advance on each anniversary date commencing with the issuance date of the policy, even though premiums were not usually paid in this manner. The reserves so computed were reflected as a liability of petitioner and, as required by the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959, were taken into account in the computations required under sections 805 and 809 on the Federal income tax returns filed by petitioner for the taxable years 1958 to 1961, inclusive.

The NAIC annual statement treats deferred and uncollected premiums on a net basis. Item 17, on the assets page of the balance sheet, calls for the statement of "Life Insurance premiums and annuity considerations deferred and uncollected" on a net premium basis. Exhibit 13 of the annual statement, which gives the detail of the assets, sets forth de-

ferred and uncollected premiums on a net basis. It provides for a memorandum account to show the amount of loading excluded from the deferred and uncollected premiums. Item 16 of the liabilities page of the balance sheet calls for a statement of the "'Cost of collection' on premiums and annuity considerations deferred and uncollected in excess of total loading thereon." As required by the NAIC annual statement, petitioner's annual statements showed net premiums deferred and uncollected as an asset. Also in conformity with the form, petitioner's annual statement did not show loading as an asset.

In the summary of operations contained in the NAIC annual statements, line 1.1, "Premiums and annuity considerations," includes deferred and uncollected premiums on a gross basis. It (line 1.1) provides for the inclusion of such premiums at gross to be added to gross premiums collected during the year less deferred and uncollected premiums at gross as of the end of the previous year. Line 17, which is the "Increase in aggregate reserve for policies and contracts with life contingencies," removes from income the net portion of the deferred and uncollected premiums. Line 25 provides for the deduction of the increase in loading on deferred and uncollected premiums and also for the deduction of cost of collection of premiums in excess of loading on deferred and uncollected premiums. In determining net gain from operations, lines 8 through 26A of the Summary of Operations list various allowable deductions, including the deduction in line 25 for increase in loading on deferred and uncollected premiums. This deduction was claimed by petitioner on its Federal income tax returns in determining its net gain from operations. Exclusive of increases in loading, the petitioner deducted all expenses actually paid or incurred each year on its NAIC annual statements and Federal income tax returns.

(b) Life insurance company taxable income, as defined in section 802(b), has three components:

(1) the smaller of "taxable investment income" or the "gain from operations" (commonly called "Phase One");

(2) 50% of the excess, if any, of gain from operations over taxable investment income (commonly called "Phase Two"); and

(3) the amount paid out or distributed to shareholders from the policyholders' surplus account or voluntarily segregated in the shareholders' surplus account (commonly called "Phase Three").

(c) The adjustments complained of in paragraph 4(a), *supra*, relate to the computation under Phase Two, the question being whether the "deferred and uncollected" and "due and unpaid" premiums (or at least the "loading" portion of the former) are excludable from the computation of gain from operations under section 809(c) or are deductible from that computation under section 809(d).

(d) The adjustment complained of in paragraph 4(c), *supra*, relates to the computation under Phase One, the question being whether the "deferred and uncollected" and "due and unpaid" premiums (or at least the loading portion of the former) are excludible from the assets of the petitioner in the immediate determination of the petitioner's current earnings rate and the ultimate determination of and effect on the petitioner's share of investment income. The third item of adjustment in paragraph 4(c), *supra*, the adjustment for "Agents' balances", is a part of the Phase One computation as well if it qualifies as a non-insurance business asset. "Agents' balances" is the bookkeeping entry showing the amounts advanced to insurance agents on the basis of commissions to be earned (hopefully) on the sale of insurance policies or for reimbursable travel or equipment expenses. If an agent stopped selling insurance for the petitioner, the petitioner wrote off the amount of that particular agent's advance or expectant commission payments (i.e., that agent's

balance) as a bad debt because of the practical problem that, in the aggregate, the cost of collection would exceed the amount of the recovery.

As with "deferred and uncollected" and "due and unpaid" premiums, the question under Phase One is whether this account constitutes an asset of the petitioner to be included in the determination of the petitioner's share of investment income.

(e) The final adjustment complained of, paragraph 4(b), *supra* relates to the failure of the Commissioner to allow the petitioner to amortize the cost of certain blocks of insurance policies purchased from three separate and independent life insurance companies. These blocks of business had ascertainable lives at the time of acquisition, their purchase constituted capital expenditures, and their cost, therefore, was properly amortizable.

(f) The Commissioner asserted the 5% penalty under section 6653(a). All of the issues between the parties are valid, vital, industry problems upon which courts have divided and none have been finally resolved. The imposition of the penalty is totally unwarranted.

6. The determinations complained of as made by the Commissioner were erroneous, illegal, and capricious, and were not based on fact. The deficiencies asserted are incorrect. Rather, the petitioner has overpaid its tax in each year for which a deficiency was asserted.

WHEREFORE, the petitioner prays that the Court try this case, hearing the proceeding and:

1. Determine that the Commissioner erred as alleged in each assignment of error set forth in paragraph 4, *supra*;

2. Determine that there are no deficiencies in tax properly assessable against the petitioner for the years 1958, 1959 and 1961; and

3. Determine that the petitioner has overpaid its tax in each of the years 1958, 1959, and 1961; and

4. Grant the petitioner the recovery of its costs; and

5. Give such other and further relief as the Court may deem fit and proper.

ADMITTED U.S. TAX COURT

/s/ Gene A. Castleberry
GENE A. CASTLEBERRY
Attorney for Petitioner
1911 Liberty Bank Building
Oklahoma City, Oklahoma
73102

UNITED STATES TAX COURT

[Filed 1971 Oct. 12, p.m. 3:57]

Docket No. 4132-71

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY, PETITIONER

v.

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

ANSWER

THE RESPONDENT, in answer to the petition filed in the above-entitled case, admits, denies and alleges as follows:

1. Admits the allegations of paragraph 1 of the petition.

2. Admits that the notice of deficiency was mailed to the petitioner on March 11, 1971; denies the remaining allegations of paragraph 2 of the petition.

3. Admits the allegations of paragraph 3 of the petition; alleges that all of such amounts are in dispute.

4. (a) to (d), inclusive. Denies that the respondent erred as alleged in subparagraphs (a) to (d), inclusive, of paragraph 4 of the petition.

5. (a) Admits the allegations of subparagraph (a) of paragraph 5 of the petition.

TEN UNNUMBERED PARAGRAPHS FOLLOWING SUBPARAGRAPH (a) OF PARAGRAPH 5. Denies the allegations of the ten unnumbered paragraphs following subparagraph (a) of paragraph 5 of the petition.

(b) (1) to (3), inclusive. Denies the allegations of subparagraph (b) of paragraph 5 and subparagraphs (1) to (3), inclusive, of subparagraph (b) of paragraph 5 of the petition.

(c) and (d) Denies the allegations of subparagraphs (c) and (d) of paragraph 5 of the petition.

UNNUMBERED PARAGRAPH FOLLOWING SUBPARAGRAPH (d) OF PARAGRAPH 5. Denies the allegations of the unnumbered paragraph following subparagraph (d) of paragraph 5 of the petition.

(e) Denies the allegations of subparagraph (e) of paragraph 5 of the petition.

(f) Admits that the Commissioner asserted the five percent penalty under section 6653(a); denies the remaining allegations of subparagraph (f) of paragraph 5 of the petition.

6. Denies the allegations of paragraph 6 of the petition.

7. Denies generally each and every allegation of the petition not hereinbefore specifically admitted, qualified or denied.

WHEREFORE, it is prayed that the deficiencies determined by the respondent be in all respects approved.

/s/ K. Martin Worthy JCH
K. MARTIN WORTHY
Chief Counsel
Internal Revenue Service

OF COUNSEL:

W. B. RILEY
Regional Counsel

THOMAS J. MILLER
Attorney

Internal Revenue Service
P. O. Box 1903
Oklahoma City, Oklahoma 73101

UNITED STATES TAX COURT

[Filed Nov. 5, 1973]

Docket No. 4132-71

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY, PETITIONER

v.

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

STIPULATIONS

IT IS HEREBY STIPULATED AND AGREED by and between the parties to this action, through their respective counsel, that the following facts shall be taken as true and correct, and that no further proof thereof need be made, it being agreed and understood that this stipulation shall be without prejudice to the right of either party to introduce additional evidence not inconsistant with the facts herein stipulated. The parties agree to the competence of the Stipulations and Exhibits but not necessarily to their materiality or relevance.

1. The Petitioner is, and at all times material hereto has been, a life insurance company as defined in section 801(a) of the Internal Revenue Code of 1954, with its home office and principal place of business in Oklahoma City, Oklahoma.

2. Attached hereto as Exhibits A, B, C, and D are copies of the Federal income tax returns for the years 1958, 1959, 1960, and 1961, respectively, which were timely filed, pursuant to extensions, by the Petitioner on or about the dates shown on the returns.

3. Attached as Exhibits E, F, G, and H are copies of the Annual Statements for 1958, 1959, 1960, and 1961, respectively, which were filed by the Petitioner with the insurance departments of each state in which it did business.

4. Attached as Exhibit I is a copy of the Statutory Notice of Deficiency, dated March 11, 1971.

5. Petitioner is a stock life insurance company organized and existing under the laws of the State of Oklahoma. Its operations and accounts are subject to the supervision and approval of the Insurance Commissioner of the State of Oklahoma and, because it does business in numerous states, it is subject to periodic audit of its accounts by the National Association of Insurance Commissioners ("NAIC"), which acts an behalf of the Insurance departments of the various states.

6. In life insurance, premiums are the agreed price for assuming and carrying the risk. The gross premium is the amount actually charged the insured and is composed of the net valuation premium and "loading." The net valuation premium on a particular policy is that amount of money which, using the mortality table and interest rate assumed for the policy, will be exactly sufficient to provide the benefits of the policy and is required by state law to be added to the policy reserve each year. "Loading" refers to an amount added to the net valuation premium for estimated acquisition, administration, management, and operating expenses, contingencies, profits in the case of capital stock companies, and dividends in the case of mutual companies. The amount of "loading" results from an independent judgment of each particular company and may vary from company to company. Policyholders may pay premiums in semiannual, quarterly, or monthly installments. An additional amount is added when an installment method of paying the premium is elected.

7. "Deferred premiums" are the premiums on policies with premiums payable more often than annually which become due after December 31 of the calendar year and before the next policy anniversary date.

8. "Due and unpaid premiums" or "uncollected premiums" are premiums which are due to be paid before the end of the year, but which have not been paid by December 31. As required by law, all policies provide for a 31-day grace period or longer for the payment of

premiums after their due date, during which period the policy is carried in full force and effect.

9. For purposes of distinguishing types of premiums involved, "deferred & uncollected" premiums will refer to life policy premiums, whether technically "deferred", "uncollected", or "due & unpaid." The "due & unpaid" designation will refer to A&H premiums which are past due but within the grace period at the close of the petitioner's taxable (calendar) year.

10. There is no obligation, legal or otherwise, on an insured to pay to the insurer deferred & uncollected or due & unpaid premiums. If the policyholder does not pay the premium in conformity with the provisions of the policy, the policy is lapsed after the grace period and appropriate adjustments are made.

11. Petitioner was required by the State of Oklahoma and by the NAIC to compute its reserves on the great majority of its life insurance policies on the assumption that premiums were paid up one year in advance on each anniversary date commencing with the issuance date of the policy, even though premiums were not usually paid in this manner. The reserves so computed were reflected as a liability of petitioner and, as required by the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959, were taken into account in the computations required under sections 805 and 809 on the Federal income tax returns filed by petitioner for the taxable years 1958 to 1961, inclusive.

12. The increases (decrease) in loading for each of the years involved was as follows:

1958	—	$ 65,308
1959	—	301,252
1960	—	(140,372)
1961	—	72,139

13. The deferred & uncollected (including loading), due & unpaid (including loading), and agents' debit balances were as follows:

	Deferred & uncollected premiums	Due & unpaid premiums	Agents' debit balances
1957*	$ 621,413	$118,047	$116,708
1958	834,331	266,323	170,945
1959	1,314,987	253,318	215,306
1960	1,570,193	232,651	329,381
1961	1,572,763	231,969	409,003

(*The 1957 figures are shown in order to show the increases during 1958.)

* * * *

Respectfully submitted,

/s/ Gene A. Castleberry
Counsel for Petitioner

/s/ Meade Whitaker
MEADE WHITAKER
Chief Counsel
Internal Revenue Service

UNITED STATES TAX COURT

Docket No. 4132-71

[Filed Feb. 6, 1974, United States Tax Court]

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY, PETITIONER

v.

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

AMENDMENT TO STIPULATION OF FACTS

It is hereby stipulated and agreed that the stipulations filed by the parties on November 5, 1973 be amended by adding the following new paragraph:

22. In the event that the Court determines that there is a deficiency due from petitioner in any of the years in controversy, the parties agree that the addition to the tax provided by *Int. Rev. Code of 1954*, § 6653(a) shall be applicable to that deficiency.

MEADE WHITAKER
Chief Counsel
Internal Revenue Service

By: /s/ Walter O. Johnson
WALTER O. JOHNSON
Assistant Regional Counsel
P.O. Box 1903
Oklahoma City, Okla. 73101
Tel. No. (405) 231-4921

/s/ Gene A. Castleberry
GENE A. CASTLEBERRY
Counsel for Petitioner
1100 City National Bank Tower
Oklahoma City, Oklahoma 73102
Tel. No. (405) 236-5311

Date: January 29, 1974

UNITED STATES TAX COURT
WASHINGTON

Docket No. 4132-71

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY, PETITIONER

v.

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

DECISION

Pursuant to the determination of the Court, as set forth in its Memorandum Opinion, filed September 18, 1974, it is

ORDERED AND DECIDED: That there are deficiencies in and additions to petitioner's income taxes as follows:

Year	Deficiency	Section 6653(a) Additions to Tax
1958	$25,974.93	$1,298.75
1959	90,647.02	4,532.35
1961	34,986.04	1,749.30

/s/ Norman O. Tietjens
NORMAN O. TIETJENS
Judge

Entered: Sept. 20, 1974 Served: Sept. 20, 1974

UNITED STATES TAX COURT

Docket No. 4132-71

[Filed Dec. 12, 1974, 3:47 P.M., United States Tax Court]

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY, PETITIONER

v.

COMMISSIONER OF INTERNAL REVENUE, RESPONDENT

NOTICE OF APPEAL

Notice is hereby given that the petitioner hereby appeals to the United States Court of Appeals for the Tenth Circuit from the decision of this court entered in the above captioned proceeding on the 20th day of September, 1974, relating to the deficiencies determined against the petitioner for the years 1958, 1959, and 1961.

/s/ Gene A. Castleberry
GENE A. CASTLEBERRY
Castleberry and Lisle
1100 City National Bank Tower
Oklahoma City, Oklahoma 73102
(405) 236-5311
Attorney for Petitioner

Served Dec. 13, 1974

Form 1120 L
U.S. Treasury Department
Internal Revenue Service

U.S. LIFE INSURANCE COMPANY INCOME TAX RETURN

FOR CALENDAR YEAR 1958

1958

Do not write in space below

Serial No. C 501

PLEASE TYPE OR PRINT PLAINLY

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

Address (Number, street, city or town, postal zone number, State)
421 N. W. 13th Street, Oklahoma City, Oklahoma

a. Date and place incorporated
January 19, 1929 - Oklahoma

b. Employer's identification number
73-0289726

c. Amount of total depreciation claimed for current year
$40,792

d. Amount of total insurance liabilities as defined in Sec. 819(b)(2)
- 0 -

e. Amount of total depreciable assets
$882,671

f. Is this a consolidated return? (If "Yes," see Instruction M.)
☐ Yes ☒ No

g. Do you have any variable annuity contracts outstanding? (If "Yes," see section 801(g).)
☐ Yes ☒ No

h. Are you a burial or funeral benefit insurance company, engaged directly in the manufacture of funeral supplies or in the performance of funeral services? (If "Yes," see section 801(j).)
☐ Yes ☒ No

i. Did you file Forms 1096 and 1099 for the calendar year in connection with taxable dividends? (See General Instruction H.)
☒ Yes ☐ No

j. Did you file Forms 1096 and 1099 for the calendar year in connection with other payments? (See General Instruction H.)
☒ Yes ☐ No

LIFE INSURANCE COMPANY TAXABLE INCOME

TENTATIVE ALLOWANCE
AMT. $44,193.66
Initials
SCH. CB 62 / 62
No.

1. (a) The taxable investment income (Schedule C)	80,711	
(b) The gain from operations (Schedule E)	139,174	
(c) The smaller of (a) or (b)		80,711
2. 50 percent of the excess, if any, of (b) over (a)		29,232
3. Life insurance company taxable income (total of lines 1(c) and 2)		109,943

Agreement under Sec. 712, Internal Revenue Code of 1954 - years affected 1958, 1959, 1960
Closing agreement attached to return for Refund Period Barred 1961.11

COMPUTATION OF TAX DUE OR REFUND

REMITTANCE

73 DEC 15 1959
DIRECTOR INT REV
OKLAHOMA CITY
TELLER - #1

4. If amount of line 3 is:		
(a) Not over $25,000—		
Enter 30 percent of line 3 (32 percent if a consolidated return)		
(b) Over $25,000—		
Enter 52 percent of line 3 (54 percent if a consolidated return)	57,170.36	
Subtract $5,500, and enter difference	5,500.00	51,670.36
5. Less: Credit allowed a domestic corporation for income taxes paid to a foreign country or United States possession (Submit Form 1118)		
6. Total income tax (line 4 less line 5)		51,670.36
7. Credits for amounts paid on 1958 income tax:		
(a) Tax paid with application for extension of time in which to file		
(b) Payments and credits on 1958 Declaration of Estimated Tax		
8. If tax (line 6) is larger than payments (line 7), the balance is **TAX DUE.** Enter such balance here →		51,670.36
Interest to 12/15/59		775.06
9. If payments (line 7) are larger than tax (line 6) →		52,445.42
10. Enter amount of line 9 you want: Credited on 1959 estimated tax		52,445.42
Refunded		

SIGNATURE AND VERIFICATION (See Instruction E)

I declare under the penalties of perjury that this return (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct, and complete return. If the return is prepared by a person other than the taxpayer, his declaration is based on all the information relating to the matters required to be reported in the return of which he has knowledge.

12/14/59 (Date) — (Signature of officer) — President (Title)

12/14/59 (Date) — Martin F. Bednar (Individual or firm signature) — BEDNAR AND PERCIVAL, CERTIFIED PUBLIC ACCOUNTANTS, LIBERTY BANK BUILDING, OKLAHOMA CITY 2, OKLAHOMA

CORPORATE SEAL

Int on 51,670.36 from 9-15-59 to 12-15-59 = 775.06

FORM 1120 L—1958

[EXHIBIT A]

SCHEDULE A.—INVESTMENT YIELD (See Instructions)

Line and Instruction No. — Gross Investment Income (Section 804(b))	1. Interest Received	2. Accrual of Discount	3. Amortization of Premium	4. Total (In Case of Line 1, Column 1 Plus Column 2 Less Column 3)
1. Interest on:				
(a) Wholly exempt obligations. (Attach schedule)	11,919	650	219	12,350
(b) United States Savings Bonds and Treasury Bonds owned in excess of the principal amount of $5,000 issued prior to March 1, 1941				
(c) Obligations of instrumentalities of the United States issued prior to March 1, 1941				
(d) Obligations issued on or after March 1, 1941, by the United States or any agency or instrumentality thereof. (Attach schedule)	657			657
(e) Loans, notes, mortgages, bank deposits, bonds, debentures, etc.	229,425	17,573	61	246,937
Totals	242,001	18,223	280	259,944
2. Dividends on stock of:				
(a) Domestic corporations subject to taxation under Chapter 1, I.R.C.				13,668
(b) Certain preferred stock of public utilities taxable under Chapter 1, I.R.C.				4,144
(c) Foreign corporations				
(d) Other corporations				
3. Rents. (Attach schedule)				11,737
4. Royalties. (Attach schedule)				
5. Leases, terminations, etc.				
6. Gross income from trade or business other than insurance business. (Attach schedule)				
7. GROSS INVESTMENT INCOME (total lines 1–6)				289,493
Deductions (Section 804(c))				
8. Investment expenses. (Attach schedule) (See Schedule H) Mortgage Service Fees				9,224
9. Real estate expenses. (Attach schedule)				1,418
10. Depreciation. (Attach schedule)				3,663
11. Depletion of mines, oil and gas wells, timber, etc. (Attach schedule)				
12. Trade or business deductions as provided in 804(c)(5) (Attach schedule)				
13. Total deductions (lines 8–12)				20,305
14. INVESTMENT YIELD (line 7 less line 13)				269,188

SCHEDULE B.—PART I—POLICY AND OTHER CONTRACT LIABILITY REQUIREMENTS (Sec. 805(a)) (See instructions)

1. Adjusted life insurance reserves (from Part V)	3,476,485	
2. Multiplied by the adjusted reserves rate (from line 8 or 7, Part III)	3.89277 %	135,332
3. Interest paid (from Part VI)		16,582
4. Policy and other contract liability requirements (Total of lines 2 and 3)		151,914

PART II—ASSETS (Sec. 805(b)(4))	1. Beginning of Taxable Year	2. End of Taxable Year	3. Mean of column 1 and column 2*
1. Real estate	213,761	547,394	380,578
2. Mortgages:			
(a) With mortgage service fees	919,616	1,389,945	1,154,780
(b) Without mortgage service fees	1,675,943	2,407,699	2,041,821
3. Collateral loans	---	---	
4. Policy loans, including premium notes	79,083	121,104	100,094
5. Corporate bonds	351,414	543,988	447,701
6. Stocks	665,937	1,032,286	849,111
7. Government obligations, etc. (Submit detailed schedule)	305,374	367,776	336,575
8. Bank deposits, cash, etc.	1,608,980	1,524,608	1,566,794
9. Other assets (Attach schedule)	29,420	45,834	37,627
10. Totals	5,949,528	7,980,634	6,915,081

*Adjusted under Section 806(b) (Attach schedule)

PART III—EARNINGS RATES (Sec. 805(b))

1. Current earnings rate (line 14, Schedule A divided by line 10, column 3, Part II)	3.89277 %
2. Earnings rate for first preceding year (Attach schedule)	3.52562 %
3. Earnings rate for second preceding year (Attach schedule)	3.40228 %
4. Earnings rate for third preceding year (Attach schedule)	4.69157 %
5. Earnings rate for fourth preceding year (Attach schedule)	3.99880 %
6. Total (lines 1–5)	19.31104
7. Average earnings rate (See instructions)	3.90221 %

BEST COPY AVAILABLE

PART IV—AVERAGE INTEREST RATE ASSUMED (See instructions)

1. Nature of Reserve (Life, Annuity, etc.)	2. Applicable Mortality or Morbidity Table	3. Tabular Interest Rate	4. Method of Computation (Commissioners' Reserve Valuation Method, etc.)	5. Amount of Reserve at Beginning of Taxable Year*	6. Amount of Reserve at End of Taxable Year*	7. Mean of Columns 5 and 6*	8. Column 7 times Column 3
1.							
2.							
3.							
4.							
5. Totals						3,715,833	120,714
6. Average rate of interest assumed in computing life insurance reserves (total of column 8 divided by total of column 7)							3.24864 %

*See instructions for 806(b) and 810(c) adjustments **Adjusted under 809(a) (Attach schedule)

PART V—ADJUSTED LIFE INSURANCE RESERVES (Sec. 805(a)(1))

1. Mean of the reserves (col. 7, line 5, Part IV)		3,715,833
2. (a) Multiplied by (that percentage which equals	100%	
(b) Increased by 10 times the average rate of interest assumed (from line 6, Part IV)	32.4864	
(c) Total	132.4864	
(d) Reduced by 10 times the adjusted reserves rate (from line 2, Part I, Schedule B)	38.9277	
(e) Line (c) less line (d)		93.5587 %
3. Adjusted life insurance reserves (line 1 multiplied by line 2(e))		3,476,485

PART VI—INTEREST PAID (Sec. 805(a))

1. Interest on indebtedness	16,582
2. Amounts in the nature of interest	
3. Discount on prepaid premiums	
4. Total interest paid (lines 1–3)	16,582

SCHEDULE C.—TAXABLE INVESTMENT INCOME (See Instructions)

1. Policyholders' share (Sec. 804) (line 4, Part I, Sch. B divided by line 14, Sch. A) but not to exceed 100%			56.4342 %
2. Company's share			43.5658 %
3. Total			100 %
	1. Total	2. Exclusion (Policyholders' share (line 1 times col. 1))	3. Company's share (line 2 less col. 1)
4. Interest wholly tax-exempt (line 1(a), column 4, Schedule A)	12,350	6,970	5,380
5. Interest partially tax-exempt (lines 1(b) and (c), column 4, Schedule A)			
6. (a) Dividends from line 2(a), Schedule A	13,668	7,713	5,955
(b) Dividends from line 2(b), Schedule A	4,144	2,339	1,805
(c) Dividends from line 2(c), Schedule A			
(d) Dividends from line 2(d), Schedule A			
7. Other items of investment yield (line 14, Schedule A, less 4–6 above)	239,026	134,892	104,134
8. Total (Lines 4–7)	269,188	151,914	117,274
REDUCTIONS			
9. Interest wholly tax-exempt (line 4, column 3)			5,380
10. Interest partially tax-exempt (30/52 of line 5, column 3)			
11. Dividends received deduction:			
(a) 85% of dividends from line 6(a), column 3		5,062	
(b) 62.115% of dividends from line 6(b), column 3		1,121	
(c) 85% of dividends from certain foreign corporations from line 6(c), column 3			
(d) Total, but not to exceed 85% of taxable investment income (line 14, Schedule C) computed without regard to this deduction			6,183
12. Small business deduction (10% of line 14, Schedule A, not to exceed $25,000)			25,000
13. Total (lines 9, 10, 11(d), and 12)			36,563
14. Taxable investment income (line 8 less line 13, but not less than zero)			80,711

SCHEDULE E.—GAIN AND LOSS FROM OPERATIONS (See Instructions)

1. Policyholders' share (Sec. 809) (Line 3, Sch. E-1 divided by line 14, Sch. A), but not to exceed 100%			51.7746%
2. Company's share			48.2254%
3. Total			100 %
	1. Total	2. Exclusion (Policyholders' share (line 1 times col. 1))	3. Company's share (line 2 less col. 1)
4. Interest wholly tax-exempt (line 1(a), column 4, Schedule A)	12,350	6,394	5,956
5. Interest partially tax-exempt (lines 1(b) and (c), column 4, Schedule A)			
6. (a) Dividends from line 2(a), Schedule A	13,668	7,077	6,591
(b) Dividends from line 2(b), Schedule A	4,144	2,146	1,998
(c) Dividends from line 2(c), Schedule A			
(d) Dividends from line 2(d), Schedule A			
7. Other items of investment yield (line 14, Schedule A, less 4–6 above)	239,026	123,755	115,271
8. Total (lines 4–7)	269,188	139,372	129,816
REDUCTIONS			
9. Interest wholly tax-exempt (line 4, column 3)			5,956
10. Interest partially tax-exempt (30/52 of line 5, column 3)			
(b) Decrease in 811(b)(2) reserves (See line 3, Part IV, Schedule E-2)			5,282
11. Other amounts (Attach schedule) Miscellaneous Income			14,244,740
12. Total (lines 8–11)			
DEDUCTIONS			
13. Death benefits, etc.			4,777,447
14. Increase in reserves (after reduction for investment yield under 810(b)) (Attach schedule)			1,780,660
15. Assumption by another person of liabilities under insurance, etc., contracts			
16. Interest wholly tax-exempt (line 4, column 3)			5,956
17. Interest partially tax-exempt (30/52 of line 5, column 3)			
18. Investment expenses, etc., not deducted on Schedule A (Attach schedule)			
19. Small business deduction (10 percent of line 14, Schedule A, not to exceed $25,000)			25,000
20. Other deductions not deducted on Schedule A (Attach schedule)			7,041,671
21. Total (lines 13–20)			13,630,734
22. Dividends received deduction (See instructions):			
(a) 85% of dividends received from line 6(a), column 3		5,602	
(b) 62.115% of dividends from line 6(b), column 3		1,241	
(c) 85% of dividends from certain foreign corporations from line 6(c), column 3			
(d) Total, but not to exceed 85% of the excess, if any, of line 12 over line 21			6,843
23. Operations loss deduction (Attach schedule)			13,637,577
24. Tentative deduction (lines 21–23)			57,020
25. Plus: (a) Group life, accident, and health insurance (line 7, Part I, Schedule E-2)			65,098
(b) Certain nonparticipating contracts (line 9, Part I, Schedule E-2)			345,871
(c) Dividends to policyholders (line 11, Part I, Schedule E-2)			14,105,566
26. Total deductions (line 24 plus line 25)			139,174
27. Gain (loss) from operations (line 12 less line 26)			

SCHEDULE E-1.—REQUIRED INTEREST (Sec. 809(a)(3)) Page 4

	1. Rate	2. Beginning of Taxable Year	3. End of Taxable Year	4. Mean (Columns 2 plus 3)	5. Column 1 multiplied by column 4
1. 810(c)(1) Reserves (from line 5, column 6, Part IV, Schedule B)					120,714
2. 810(c)(3) Reserves	3½	260,195	422,318	341,257	11,944
3. 810(c)(4) Reserves	3½	193,339	190,283	191,811	6,713
4. 810(c)(5) Reserves	3½				
5. Required interest (Total, lines 1-4)					139,371

SCHEDULE E-2.—PART I—LIMITATION ON LINE 25, SCHEDULE E DEDUCTION (Sec. 809(f))

1. Statutory amount		250,000
2. (a) From line 12, Schedule E	14,244,740	
(b) Less: Tentative deduction, line 24, Schedule E	13,637,577	
3. Gain from operations without regard to line 25, Schedule E	607,163	
4. Less: Taxable investment income (line 14, Schedule C)	80,711	
5. Excess of line 3 over line 4 (but not less than zero)		526,452
6. Maximum possible deduction for line 25, Schedule E (line 1 plus line 5)		776,452
7. Deduction for group life, accident, and health insurance (Part II) (Not in excess of line 6)		57,020
8. Maximum deduction for certain nonparticipating contracts (line 6 less line 7)		719,432
9. Deduction for certain nonparticipating contracts (Part III) (Not in excess of line 8)		65,098
10. Maximum deduction for dividends to policyholders (line 8 less line 9)		654,334
11. Deduction for dividends to policyholders (Part IV) (Not in excess of line 10)		345,871

PART II—GROUP LIFE, ACCIDENT, AND HEALTH INSURANCE (Sec. 809(d)(9))

1. Reserves at the end of the taxable year		2,850,988
2. Multiplied by		2%
3. Tentative deduction		57,020

PART III—CERTAIN NONPARTICIPATING CONTRACTS (Sec. 809(d)(5))

1. (a) Reserve at the end of the taxable year	2,106,258	
(b) Reserve at the beginning of the taxable year	1,455,276	
(c) Increase (if the difference is negative, enter "0")	650,982	65,098
(d) Multiplied by	10%	
2. (a) Net premiums	1,269,432	
(b) Multiplied by	3%	38,083
3. Tentative deduction—the greater of line 1 or line 2		65,098

PART IV—DIVIDENDS TO POLICYHOLDERS (Sec. 809(d)(3))

1. Dividends paid to policyholders		320,756
2. (a) Increased by the excess of (1) over (2):		
(1) Reserve as of the end of the taxable year	61,615	
(2) Reserve as of the end of the preceding taxable year	36,500	25,115
OR		
(b) Decreased by the excess of (2) over (1):		
(1) Reserve as of the end of the preceding taxable year		
(2) Reserve as of the end of the taxable year		
3. If positive, enter on line 11, Schedule E-2; if negative, enter on line 10(b), Schedule E		345,871

SCHEDULE F.—SHAREHOLDERS SURPLUS ACCOUNT (Sec. 815(b))

		(BEG)
1. Balance as of January 1, 1958		104,988
2. Life insurance company taxable income		---
3. Partially tax-exempt interest deduction (30/52 of lines 10(b) and (c), column 4, Schedule A)		
4. Dividends received deduction:		
(a) 85% of dividends received from line 2(a), Schedule A	11,618	
(b) 62.115% of dividends received from line 2(b), Schedule A	2,574	
(c) 85% of dividends received from certain foreign corporations		
(d) Total, but not to exceed 85% of line 12 less line 21, Schedule E		14,192
5. Interest wholly exempt from tax (line 1(a), column 4, Schedule A)		12,350
6. Small business deduction (line 19, Schedule D)		25,000
7. Total (lines 1-6)		156,530
8. Less: Tax liability for 1958 under 802(a)		49,094
9. Excess of line 7 over line 8		107,436
10. Less: Distributions in 1958 (Not to exceed line 9)		107,436
11. Balance as of December 31, 1958 (line 9 less line 10)		- 0 -

SCHEDULE H.—LIMITATION OF INVESTMENT EXPENSE DEDUCTION (Schedule H need not be filled in if no deduction is claimed for any general expenses that are allocated to investment income.)

1. Mean of the assets for the taxable year (line 10, column 3, Part II, Schedule B)		
2. One-fourth of 1% of the mean of the assets (line 1)		
3. Mortgage service fees		
4. The greater of (a) or (b):		
(a) (i) Investment yield computed without regard to investment expenses		
(ii) Three and three-fourths percent of line 1		
(iii) Excess (line (i) over line (ii))		
(iv) One-fourth of line (iii)		
(v) Reduced by mortgage service fees (line 3)		
(vi) Line (iv) less line (v)		
(b) One-fourth of 1% of the amount on line 2(a), column 3, Part II, Schedule B		
5. Limit on deduction for investment expenses (Total lines 2-4)		

K. Did you at any time during the taxable year own directly or indirectly 50% or more of the voting stock of a domestic corporation?
☐ Yes ☑ No

L. Did any corporation, individual, partnership, trust, or association at any time during the taxable year own directly or indirectly 50% or more of your voting stock?
☐ Yes ☒ No
If either answer is "Yes," see Instruction N.

M. Did you at any time during the taxable year own directly or indirectly any stock of a foreign corporation? If "Yes," attach statement required by General Instruction I.)
☐ Yes ☑ No

N. Did you file with the District Director a copy of the annual statement for the preceding year as required by General Instruction K?
☐ Yes ☒ No If "Yes," state office to which filed.

O. If a copy of the annual statement does not accompany this return, state why the statement is not attached.
Available at Company Office

SCHEDULE B
Part II

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

Assets (Sec. 805 (b)(4))

	1957			1956			1955			1954		
	Beginning	Ending	Mean	Beginning	Ending	Mean	Beginning	Ending	Mean	Beginning	Ending	Mean
Real Estate	$ 135,774	$ 213,761	$ 174,768	$ 62,267	$ 135,774	$ 99,021	$ ---	$ 62,267	$ 31,134	$ ---	$ ---	$ ---
Mortgages:												
Without Service Fees	543,787	919,616	731,701	481,946	543,787	512,866	350,530	481,946	416,238	169,325	350,530	259,928
With Service Fees	1,713,227	1,675,943	1,694,585	734,924	1,713,227	1,249,076	438,061	784,924	611,492	163,248	438,061	300,654
Collateral Loans	74,000	---	37,000	---	74,000	37,000	---	---	---	---	---	---
Policy Loans, including Premium Notes	38,830	79,083	58,957	22,475	38,830	30,652	14,947	22,475	18,711	9,058	14,947	12,003
Corporate Bonds	82,909	351,414	217,161	63,972	82,909	74,441	52,786	63,972	58,379	30,458	52,786	75,622
Stocks	376,104	665,937	521,061	232,803	376,184	304,493	152,578	232,803	192,691	242,234	152,578	197,406
Government Obligations	263,385	305,374	284,379	49,525	263,385	156,455	39,000	49,525	44,262	39,000	39,000	39,000
Bank Deposits, Cash, etc.	1,086,593	1,608,960	1,347,787	280,069	1,086,593	683,331	321,748	280,069	300,909	210,429	321,748	266,088
Other Assets:												
Accrued Interest and Investment Income	14,220	20,088	17,154	10,760	14,220	12,490	7,438	10,760	9,099	3,955	7,438	5,697
Cash Value Life Insurance Policy on Officers	5,645	9,332	7,488	---	5,645	2,823	---	---	---	---	---	---
Mean to Schedule B, Part III	$4,334,554	$5,643,528	$5,032,041	$1,930,741	$4,334,554	$3,162,648	$1,[illegible]	$1,[illegible],741	$1,[illegible],315	$1,[illegible],707	$1,377,[illegible]	$1,156,[illegible]

SCHEDULE B
Part III

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

Earnings Rate
(Sec. 805 (b))

	1957	1956	1955	1954
Mean of Invested Assets-Sch. B11	$5,092,041	$3,162,648	$1,683,915	$1,156,398
Investment Yield-Sub-Sch. A	$ 179,526	$ 107,602	$ 79,002	$ 46,242
Earnings Rate-Line 2 ÷ Line 1	3.52562%	3.40228%	4.69157%	3.93880%

SCHEDULE B
Part III
Sub-Schedule A

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

Investment Yield

	1957		1956		1955		1954	
GROSS INVESTMENT INCOME:								
1. Interest:								
(a) Wholly Exempt Obligations	$12,349		$ 2,288		$ 103		$ 500	
(c) Obligations issued Prior 3/1/41	---		---		160		180	
(d) Obligations issued After 3/1/41	533		694		786		825	
(e) Loans, Notes, etc.	144,460		27,563		70,347		36,431	
Total Interest		$157,342		$100,545		$71,416		$37,936
2. Dividends:								
(a) Domestic Corporations		11,284		12,324		10,996		9,387
(c) Public Utilities		5,732		965		50		196
3. Rents		18,025		4,503		480		---
Total Investment Income		$192,383		$118,337		$82,942		$47,519
INVESTMENT EXPENSE:								
8. Mortgage Service Fees	$ 4,784		$ 4,912		$ 2,384		$ 1,277	
9. Real Estate Expense	5,051		3,814		931		---	
10. Depreciation	3,022		2,009		625		---	
		12,857		10,735		3,940		1,277
Investment Yield		$179,526		$107,602		$79,002		$46,242

SCHEDULE B
Part IV

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

Average Interest Rate Assumed
Year ended December 31, 1950

1. Nature of Reserve	2. Assumed Morbidity Table	3. Assumed Interest Rate	4. Method of Computation	5. Reserve Beginning of Year	6. Reserve End of Year	7. Mean	8. Col. 3 Times Col. 7
Life	AE	3%	Ill. Std.	$1,949,787	$2,336,460	$2,143,123	$ 75,009
Life	AE	3	NLP	62,832	91,393	72,138	2,164
Life	CSO-41	3%	CRVM	581	1,101	816	29
Life	CSO-41	3	CRVM	737,197	1,576,571	1,156,884	34,707
Life	CSO-41	2½	CRVM	199,787	383,204	291,496	7,287
Annuity	51-37	2½	---	4,851	4,713	4,782	120
Accidental Death Benefits	DIT	3	---	17,530	9,360	13,445	403
Disability - Active Lives		3	---	12,120	17,545	14,868	446
Disability - Disabled Lives		3	---	- 0 -	2,195	1,098	33
Non-reduction of Deferred Premiums		3	---	11,616	22,752	17,185	516
				$2,976,478	$4,445,293	$3,715,945	$120,714

SCHEDULE E
Line 14

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

Increase in Reserves
Year ended December 31, 1958

	Balance Beginning of Year	Balance End of Year	Increase or (Decrease)
Life - See Schedule B, Part IV	$2,996,375	$4,435,290	$1,438,915
Dividend Accumulations	260,195	422,318	162,123
Unearned Premiums	1,707,873	1,903,547	195,674
Unpaid Losses	512,109	634,460	122,351
Advance Premiums	15,460	16,429	969
			$1,920,032
Less Policyholders' Share of Investment Income			139,372
			$1,780,660

SCHEDULE E
Line 20

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

Schedule of Other Deductions
Year ended December 31, 1958

Commissions	$4,801,208
Increase in Loading & Cost of Collection in Excess of Loading	65,308
Taxes - Sub-Schedule E (1) Attached	211,221
Rent	84,991
Salaries & Wages	806,835
Other Employee Welfare	1,483
Legal Fees & Expense	1,336
Medical Examination Fees	16,845
Inspection Report Fees	42,936
Fees of Public Accountants & Consulting Actuaries	5,750
Investigation & Settlement of Policy Claims	61,633
Agents' Travel	373,057
Administrative Travel	29,814
Advertising	27,598
Postage, Express, Telephone & Telegraph	93,118
Printing & Stationery	122,152
Rental of Equipment	32,652
Federal Employees Group Expense	4,769
Books & Periodicals	11,394
Bureau & Association Dues	11,599
Insurance	3,311
Collection & Bank Service Charges	2,864
Sundry General Expense	7,441
Agents Balances Charged Off	38,553
Agency Conference	53,609
Agents' Bonuses	41,780
Maintenance & Repair - Home Office	16,275
Utilities	10,372
Promotion & Entertainment	25,538
Depreciation - Sub-Schedule E (2) Attached	37,129
	$7,041,671

Form 1120L
U.S. Treasury Department
Internal Revenue Service

U.S. LIFE INSURANCE COMPANY INCOME TAX RETURN
FOR CALENDAR YEAR 1959

1959

Do not write in space below

Serial No. 508031

PLEASE TYPE OR PRINT PLAINLY

Name: STANDARD LIFE & ACCIDENT INSURANCE COMPANY

Address (Number, street, city or town, postal zone number, State): 421 N. W. 13th Street, Oklahoma City, Oklahoma

a. Date and place incorporated: January 19, 1929 - Oklahoma

b. Employer's identification number: 73-0289726

c. Amount of total depreciation claimed for current year: $55,026

d. Amount of total insurance liabilities. (See Instruction 5): $9,657,979

e. Amount of total depreciable assets: $916,517

f. Is this a consolidated return? (If "Yes," see Instruction M.) ☐ Yes ☒ No

g. Do you have any variable annuity contracts outstanding? (If "Yes," see section 801(g).) ☐ Yes ☒ No

h. Are you a burial or funeral benefit insurance company, engaged directly in the manufacture of funeral supplies or in the performance of funeral services? (If "Yes," see section 818(b).) ☐ Yes ☒ No

i. Did you file Forms 1096 and 1099 for the calendar year in connection with taxable dividends? (See General Instruction H.) ☒ Yes ☐ No

j. Did you file Forms 1096 and 1099 for the calendar year in connection with other payments? (See General Instruction H.) ☒ Yes ☐ No

GROUP SUPERVISOR DATE

LIFE INSURANCE COMPANY TAXABLE INCOME

1. (a) The taxable investment income (Schedule C)		
(b) The gain (loss) from operations (Schedule E)		
(c) The smaller of (a) or (b)		74,020
50 percent of the excess, if any, of 1(b) over 1(a)		195,639
2. Amount subtracted from policyholders, surplus account (line 5, Schedule G)		
4. Life insurance company taxable income (Total lines 1(c)-3)		269,659

REC'D WITH REMITTANCE 920
13 JUN 15 1960
DIRECTOR INT REV OKLAHOMA CITY 85

COMPUTATION OF TAX DUE OR REFUND

5. If amount of line 4 is: (a) Not over $25,000— Enter 30 percent of line 4 (32 percent if a consolidated return)		Agreement under Sec. 71.21, Internal
(b) Over $25,000— Enter 52 percent of line 4 (54 percent if a consolidated return)	140,222.68	Revenue Code 1954 - year closed 1958; 1959, 1960, 1961.
Subtract $5,500, and enter difference	5,500.00	Life agreement entitled to return for 1961 134,722.68
6. Capital gains tax (line 19, separate Schedule D, Form 1120L)		131.25
7. Increase in 1957 tax prior to deferment (818(e)(3)) (Attach Schedule)		
8. Total of lines 5-7		134,853.93
9. Less: (a) Reduction under 802(a)(3) Schedule J)		
(b) Credit allowed a domestic corporation for income taxes paid to a foreign country or U.S. possession (Submit Form 1118)		
10. Total income tax (line 8 less line 9)		134,853.93
11. Less: (a) Tax paid with application for extension of time in which to file	50,000.00	
(b) Payments and credits on 1959 Declaration of Estimated Tax	85	50,000.00
(c) Deferment under 818(e)(3)-(NOT to exceed 90 percent of line 7)		84,853.93
12. If line 10 is larger than line 11, the balance is TAX DUE ..... Enter such balance here →		84,853.93
13. If line 11 is larger than line 10 ..... Enter overpayment here → Int.		522.81
14. Enter amount of line 13 you want: Credited on 1960 estimated tax		85,376.74
Refunded		

SIGNATURE AND VERIFICATION (See Instruction E)

I declare under the penalties of perjury that this return (including any accompanying schedules and statements) has been examined by me and to the best of my knowledge and belief is a true, correct and complete return. If the return is prepared by a person other than the taxpayer, his declaration is based on all the information relating to the matters required to be reported in the return of which he has knowledge.

CORPORATE SEAL

6-15-60 (Date) — (Signature of officer) — President (Title)

5/16/60 (Date) — Martin F. Bednar (Individual or firm signature)

BEDNAR AND PERCIVAL
CERTIFIED PUBLIC ACCOUNTANTS
LIBERTY BANK BUILDING
OKLAHOMA CITY, OKLAHOMA

FORM 1120L—1959

DKT. NO. 4133-62 EX. B

84,853.93 315 (3) 6-15-60 = 522.81

33

[EXHIBIT B]

SCHEDULE A.—INVESTMENT YIELD (See Instructions)

Line and Instruction No. — Gross Investment Income (Section 804(b))	1. Interest	2. Accrual of Discount	3. Amortization of Premium	4. Total (In Case of Line 1, Column 1 Plus Column 2 Less Column 3)
1. Interest on:				
(a) Wholly exempt obligations. (Attach schedule)	11,396			11,396
(b) United States Savings Bonds and Treasury bonds owned in excess of the principal amount of $5,000 issued prior to March 1, 1941				
(c) Other obligations of instrumentalities of the United States issued prior to March 1, 1941				
(d) Obligations issued on or after March 1, 1941, by the United States or any agency or instrumentality thereof. (Attach schedule)	513			513
(e) Loans, notes, mortgages, bank deposits, bonds, debentures, etc.	252,850	18,198	96	270,952
Totals	264,759	18,198	96	282,861
2. Dividends on stock of:				
(a) Domestic corporations subject to taxation under Chapter 1, I.R.C.				21,358
(b) Certain preferred stock of public utilities taxable under Chapter 1, I.R.C.				934
(c) Foreign corporations				
(d) Other corporations				
3. Rents. (Attach schedule)				22,642
4. Royalties. (Attach schedule)				---
5. Leases, terminations, etc.				---
6. Net short-term capital gain reduced by any net long-term capital loss (line 15, separate Schedule D, Form 1120L)				---
7. Gross income from trade or business other than insurance business. (Attach schedule)				---
8. GROSS INVESTMENT INCOME (total lines 1-7)				327,795
Deductions (Section 804(c))				
9. Investment expenses. (Attach schedule) (See Schedule H)				31,904
10. Real estate expenses. (Attach schedule)				12,402
11. Depreciation. (Attach schedule)				5,160
12. Depletion of mines, oil and gas wells, timber, etc. (Attach schedule)				---
13. Trade or business deductions as provided in 804(c)(5). (Attach schedule)				---
14. Total deductions (lines 9-13)				49,466
15. INVESTMENT YIELD (line 8 less line 14)				278,329

SCHEDULE B.—PART I—POLICY AND OTHER CONTRACT LIABILITY REQUIREMENTS (Sec. 805(a)) (See instructions)

1. Adjusted life insurance reserves (from Part VI)	5,616,083	
2. Multiplied by the adjusted reserves rate (lesser of lines 1 or 7, Part III)	2.76754 %	155,427
3. Pension plan reserves (from line 5, col. 7, Part V)		
4. Multiplied by the current earnings rate (line 1, Part III)	%	---
5. Interest paid (from Part VII)		11,861
6. Policy and other contract liability requirements (total of lines 2, 4, and 5)		167,288

PART II—ASSETS (Sec. 805(b)(4))	1. Beginning of Taxable Year	2. End of Taxable Year	3. Mean of Column 1 and Column 2*
1. Real estate	547,394	429,994	488,694
2. Mortgages:			
(a) Without service fees	1,389,945	1,962,600	1,676,273
(b) With service fees	2,407,699	2,973,679	2,690,689
3. Collateral loans			
4. Policy loans, including premium notes	121,104	176,384	148,744
5. Corporate bonds	543,988	734,261	639,124
6. Stocks	1,032,286	2,408,671	1,720,479
7. Government obligations, etc. (Submit detailed schedule)	367,776	35,117	201,446
8. Bank deposits, cash, etc.	1,524,608	1,588,507	1,556,558
9. Other assets (Attach schedule)	838,822	1,031,007	934,914
10. Totals	8,773,622	11,340,220	10,056,921

*Adjusted under Section 806(a) (Attach schedule)

PART III—EARNINGS RATES (Sec. 805(b))

1. Current earnings rate (line 15, Schedule A, divided by line 10, column 3, Part II)	2.76754 %
2. Earnings rate for first preceding year (Attach schedule)	3.56063 %
3. Earnings rate for second preceding year (Attach schedule)	3.27594 %
4. Earnings rate for third preceding year (Attach schedule)	3.16508 %
5. Earnings rate for fourth preceding year (Attach schedule)	4.30430 %
6. Total (lines 1-5)	17.07349
7. Average earnings rate (See instructions)	3.41470 %

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SCHEDULE E.—GAIN AND LOSS FROM OPERATIONS (See Instructions)

1. Policyholders' share (Sec. 809) (Line 5, Sch. E-1 divided, by line 15, Sch. A), but not to exceed 100%		71.8240 %
2. Company's share		28.1760 %
3. Total		100 %

	1. Total	2. Exclusion Policyholders' share (line 1 times col. 1)	3. Company's share (line 2 times col. 1)
4. Interest wholly tax-exempt (line 1(a), column 4, Schedule A)	11,396	8,185	3,211
5. Interest partially tax-exempt (lines 1(b) and (c), column 4, Sch. A)			
6. (a) Dividends from line 2(a), Schedule A	21,358	15,340	6,018
(b) Dividends from line 2(b), Schedule A	934	671	263
(c) Dividends from line 2(c), Schedule A			
(d) Dividends from line 2(d), Schedule A			
7. Other items of investment yield (line 15, Schedule A, less 4-6 above)	244,641	175,711	68,930
8. Total (lines 4-7)	278,329	199,907	78,422

9. Gross premiums ..... Less: Return premiums, etc.		15,929,648
10. (a) Decrease in reserves (after adjustment under 810(a)) (Attach schedule)		
(b) Decrease in 811(b)(2) reserves (See line 3, Part IV, Schedule E-2)		
11. Other amounts (Attach schedule)		
12. Total (lines 8-11)		16,008,070
DEDUCTIONS		
13. Death benefits, etc		5,292,711
14. Increase in reserves (after reduction for investment yield under 810(b)) (Attach schedule)		2,062,457
15. Assumption by another person of liabilities under insurance, etc., contracts		---
16. Interest wholly tax-exempt (line 4, column 3)		3,211
17. Interest partially tax-exempt (30/52 of line 5, column 3)		---
18. Investment expenses, etc., not deducted on Schedule A (Attach schedule)		
19. Small business deduction (10% of line 15, Schedule A, not to exceed $25,000)		25,000
20. Other deductions not deducted on Schedule A (Attach schedule) see schedule 7,533,661		
21. Total (lines 13-20) Okay		14,917,040
22. Dividends received deduction (See Instructions):		
(a) 85% of dividends received from line 6(a), column 3	5,115	
(b) 62.115% of dividends from line 6(b), column 3	163	
(c) 85% of dividends from *certain* foreign corporations from line 6(c), column 3		
(d) Total, but not to exceed 85% of the excess, if any, of line 12 over line 21		5,278
23. Operations loss deduction (Attach schedule)		---
24. Tentative deduction (lines 21-23)		14,922,318
25. Plus: (c) Group life, accident, and health insurance (line 7, Part I, Schedule E-2)	75,780	
(b) Certain nonparticipating contracts (line 9, Part I, Schedule E-2)	89,554	
(c) Dividends to policyholders (line 11, Part I, Schedule E-2)	455,121	620,455
26. Total deductions (line 24 plus line 25)		15,542,773
27. Gain (loss) from operations (line 12 less line 26)		465,297

SCHEDULE E-1.—REQUIRED INTEREST (Sec. 809(a)(2))

	1. Rate	2. Beginning of Taxable Year	3. End of Taxable Year	4. Mean of Columns 2 and 3	5. Column 1 times column 4
1. 810(c)(1) Reserves (from line 5, column 8, Parts IV and V, Schedule B)					173,983
2. 810(c)(3) Reserves					
3. 810(c)(4) Reserves	3½	422,318	651,015	536,667	18,783
4. 810(c)(5) Reserves	3½	190,283	217,756	204,020	7,141
5. Required interest (Total, lines 1-4)					199,907

SCHEDULE E-2.—PART I—LIMITATION ON LINE 25, SCHEDULE E, DEDUCTION (Sec. 809(f))

1. Statutory amount		250,000
2. (a) From line 12, Schedule E	16,008,070	
(b) Less: Tentative deduction, line 24, Schedule E	14,922,318	
3. Gain from operations without regard to line 25, Schedule E	1,085,752	
4. Less: Taxable investment income (line 14, Schedule C)	74,020	
5. Excess of line 3 over line 4 (but not less than zero)		1,011,732
6. Maximum possible deduction for line 25, Schedule E (line 1 plus line 5)		1,261,732
7. Deduction for group life, accident, and health insurance (Part II) (Not in excess of line 6)		75,780
8. Maximum deduction for certain nonparticipating contracts (line 6 less line 7)		1,185,952
9. Deduction for certain nonparticipating contracts (Part III) (Not in excess of line 8)		89,554
10. Maximum deduction for dividends to policyholders (line 8 less line 9)		1,096,398
11. Deduction for dividends to policyholders (Part IV) (Not in excess of line 10)		455,121

PART IV—AVERAGE INTEREST RATE ASSUMED (Sec. 805(c)(2))

1. Nature of Reserve (Life Annuity, Etc.) Exclude one-third of "qualified" pension plan reserves	2. Assumed Mortality or Morbidity Table	3. Assumed Interest Rate	4. Method of Computation (Illinois Standard, Etc.)	5. Amount of Reserve at Beginning of Taxable Year*	6. Amount of Reserve at End of Taxable Year*	7. Mean of Columns 5 and 6**	8. Column 3 times Column 7
1.		SCHEDULE B, Part IV ATTACHED					
2.							
3.							
4.							
5. Totals						5,359,528	173,983
6. Average rate of interest assumed in computing life insurance reserves (total of column 8 divided by total of column 7)							3.24623 %

PART V—PENSION PLAN RESERVES (805(d)) (Include one-third of "qualified" pension plan reserves excluded from Part IV)

1. 805(d)(1)(A) reserves							
2. 805(d)(1)(B) reserves							
3. 805(d)(1)(C) reserves		NONE					
4. 805(d)(1)(D) reserves							
5. Totals							

*See Instructions for 806(b) and 818(c) adjustments **Adjusted under 806(a) (Attach schedule)

PART VI—ADJUSTED LIFE INSURANCE RESERVES (Sec. 805(c)(1))

1. Mean of the reserves (col. 7, line 5, Part IV)		5,359,528
2. (a) Multiplied by that percentage which equals	100%	
(b) Increased by 10 times the average rate of interest assumed (from line 6, Part IV)	32.4623	
(c) Total	132.4623	
(d) Reduced by 10 times the adjusted reserves rate (from line 2, Part I, Schedule B)	27.6754	
(e) Line (c) less line (d)		104.7869 %
3. Adjusted life insurance reserves (line 1 multiplied by line 2(e))		5,616,083

PART VII—INTEREST PAID (Sec. 805(e))

1. Interest on indebtedness	11,861
2. Amounts in the nature of interest	---
3. Discount on prepaid premiums	---
4. Total interest paid (lines 1-3)	11,861

SCHEDULE C.—TAXABLE INVESTMENT INCOME (See Instructions)

1. Policyholders' share (Sec. 804) (line 6, Part I, Sch. B, divided by line 15, Sch. A) but not to exceed 100%		60.1044 %
2. Company's share		39.8956 %
3. Total		100 %

	1. Total	2. Exclusion Policyholders' share (line 1 times col. 1)	3. Company's share (line 2 times col. 1)
4. Interest wholly tax-exempt (line 1(a), column 4, Schedule A)	11,396	6,850	4,546
5. Interest partially tax-exempt (lines 1(b) and (c), column 4, Sch. A)			
6. (a) Dividends from line 2(a), Schedule A	21,358	12,837	8,521
(b) Dividends from line 2(b), Schedule A	934	561	373
(c) Dividends from line 2(c), Schedule A			
(d) Dividends from line 2(d), Schedule A			
7. Other items of investment yield (line 15, Schedule A, less 4-6 above)	244,641	147,040	97,601
8. Total (Lines 4-7)	278,329	167,288	111,041

REDUCTIONS		
9. Interest wholly tax-exempt (line 4, column 3)		4,546
10. Interest partially tax-exempt (30/52 of line 5, column 3)		---
11. Dividends received deduction:		
(a) 85% of dividends from line 6(a), column 3	7,243	
(b) 62.115% of dividends from line 6(b), column 3	232	
(c) 85% of dividends from *certain* foreign corporations from line 6(c), column 3	---	
(d) Total, but not to exceed 85% of taxable investment income (line 14) computed without regard to this deduction		7,475
12. Small business deduction (10% of line 15, Schedule A, not to exceed $25,000)		25,000
13. Total (lines 9, 10, 11(d), and 12)		37,021
14. Taxable investment income (line 8 less line 13, but not less than zero)		74,020

PART II—GROUP LIFE, ACCIDENT, AND HEALTH INSURANCE (Sec. 809(d)(6))

1. Net premiums		3,782,017
2. Multiplied by		2%
3. Tentative deduction (Not to exceed 50% of line 1, less the amount of this deduction for 1958)		75,780

PART III—CERTAIN NONPARTICIPATING CONTRACTS (Sec. 809(d)(5))

1. (a) Reserve at the end of the taxable year	3,001,802	
(b) Reserve at the beginning of the taxable year	2,106,253	
(c) Increase (if the difference is negative, enter "0")	895,544	
(d) Multiplied by	10%	89,554
2. (a) Net premiums	1,615,208	
(b) Multiplied by	3%	48,456
3. Tentative deduction—the greater of line 1 or line 2		89,554

PART IV—DIVIDENDS TO POLICYHOLDERS (Sec. 809(d)(3))

1. Dividends paid to policyholders		438,986
2. (a) Increased by the excess of (1) over (2):		
(1) Reserve as of the end of the taxable year	77,750	
(2) Reserve as of the end of the preceding taxable year	61,615	16,135
OR		
(b) Decreased by the excess of (1) over (2):		
(1) Reserve as of the end of the preceding taxable year		
(2) Reserve as of the end of the taxable year		
3. If positive, enter on line 11, Schedule E-2; if negative, enter on line 10(b), Schedule E		455,121

SCHEDULE F.—SHAREHOLDERS SURPLUS ACCOUNT (Sec. 815(b))

1. Balance as of beginning of the taxable year		- 0 -
2. Life insurance company taxable income computed without regard to section 802(b)(3) (line 4 less line 3, page 1)		269,659
3. The amount, if any, by which the net long-term capital gain exceeds the net short-term capital loss		525
4. Partially tax-exempt interest deduction (30/52 of lines 1(b) and (c), column 4, Schedule A)		---
5. Dividends received deduction:		
(a) 85% of dividends received from line 2(a), Schedule A	18,154	
(b) 62.115% of dividends received from line 2(b), Schedule A	580	
(c) 85% of dividends received from *certain* foreign corporations	---	
(d) Total, but not to exceed 85% of line 12 less line 21, Schedule E		18,734
6. Interest wholly exempt from tax (line 1(a), column 4, Schedule A)		11,396
7. Small business deduction (line 19, Schedule E)		25,000
8. Total (lines 1-7)		325,314
9. Less: Tax liability for 1959 under 802(a) (computed without regard to 802(b)(3))		134,854
10. Excess of line 8 over line 9		190,460
11. Less: Distributions in 1959 (Not to exceed line 10)		99,997
12. Balance as of the end of the taxable year (line 10 less line 11)		90,463

SCHEDULE G.—POLICYHOLDERS SURPLUS ACCOUNT (Sec. 815(c))

1. Balance as of the beginning of the taxable year		zero
2. Add: (a) 50 percent of the excess, if any, of the gain from operations over the taxable investment income (line 2, page 1)	195,639	
(b) The deduction for certain nonparticipating contracts (line 25(b), Schedule E)	89,554	
(c) The deduction for group life, accident, and health insurance (line 25(a), Schedule E)	75,780	
3. Total (line 1 plus line 2)		360,973
4. Less: (a) Actual distributions only in excess of line 10, Schedule F	---	
(b) Tax increase on 4(a) by reason of 802(b)(3)	---	
(c) Amounts treated as distributions (See instructions)	---	
(d) Tax increase on 4(c) by reason of 802(b)(3)	---	
(e) Subtractions required under 815(d)	---	
5. Total of lines 4(a)-(d) (Not to exceed line 3) (Enter here and on line 3, page 1)		---
6. Balance as of the end of the year (line 3 less line 5)		360,973

SCHEDULE H.—LIMITATION OF INVESTMENT EXPENSE DEDUCTION (Schedule H need not be filled in if no deduction is claimed for any general expenses that are allocated to investment income.)

1. Mean of the assets for the taxable year (line 10, column 3, Part II, Schedule B)		10,056,921
2. One-fourth of 1% of the mean of the assets (line 1)		25,142
3. Mortgage service fees		14,205
4. The greater of (a) or (b):		
(a) (i) Investment yield computed without regard to investment expenses	310,233	
(ii) Three and three-fourths percent of line 1	377,135	
(iii) Excess (line (i) over line (ii))	---	
(iv) One-fourth of line (iii)	---	
(v) Reduced by mortgage service fees (line 3)	(14,205)	
(vi) Line (iv) less line (v)	(14,205)	
(b) One-fourth of 1% of the amount on line 2(a), column 3, Part II, Schedule B	4,191	4,191
5. Limit on deduction for investment expenses (Total lines 2-4)		43,538

SCHEDULE J.—REDUCTION UNDER 802(a)(3)

1. Amount of tax (line 5, page 1)		
2. Life insurance company taxable income (line 4, page 1)		
3. Amount subtracted from policyholders surplus account on lines 4(a) and (b), Sch. G		
4. Line 2 less line 3		
5. If amount of line 4 is:		
(a) Not over $25,000—		
Enter 30 percent of line 4 (32 percent if a consolidated return)		
(b) Over $25,000—		
Enter 52 percent of line 4 (54 percent if a consolidated return)		
Subtract $5,500, and enter difference	5,500.00	
6. Excess of line 1 over line 5		
7. Line 6 multiplied by 66⅔% (Enter here and on line 9(a), page 1)		

K. Did you at any time during the taxable year own directly or indirectly 50% or more of the voting stock of a domestic corporation?
☒ Yes ☐ No

L. Did any corporation, individual, partnership, trust, or association at any time during the taxable year own directly or indirectly 50% or more of your voting stock?
☐ Yes ☒ No
If either answer is "Yes," see Instruction N.

M. Did you at any time during the taxable year own directly or indirectly any stock of a foreign corporation? (If "Yes," attach statement required by General Instruction J.)
☐ Yes ☒ No

N. Did you file with the District Director a copy of the annual statement for the preceding year as required by General Instruction K?
☐ Yes ☒ No If "Yes," state office in which filed.

O. If a copy of the annual statement does not accompany this return, state why the statement is not attached.

Available at Company Office

U.S. GOVERNMENT PRINTING OFFICE : 1960—O-513456

SCHEDULE B
Part III

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

Earnings Rate
(Sec. 805 (b))

	1958	1957	1956	1955
Mean of Invested Assets - Sub-Schedule B-2, Part III	$7,560,126	$5,480,130	$3,399,657	$1,835,420
Investment Yield - Sub-Schedule B-1, Part III	$ 269,188	$ 179,526	$ 107,602	$ 79,002
Earnings Rate - Line 2 ÷ Line 1	3.56063%	3.27594%	3.16508%	4.30430%

SUB-SCHEDULE S-1
Part III

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

Investment Yield

GROSS INVESTMENT INCOME:	1958		1957		1956		1955	
1. Interest:								
(a) Wholly Exempt Obligations	$ 12,490		$ 12,349		$ 2,288		$ 103	
(c) Obligations Issued Prior 3/1/41	---		---		---		180	
(d) Obligations Issued After 3/1/41	657		533		634		786	
(e) Loans, Notes, etc.	246,937		144,460		97,563		70,347	
Total Interest		$259,944		$157,342		$100,945		$71,416
2. Dividends:								
(a) Domestic Corporations		11,668		11,284		12,324		10,936
(c) Public Utilities		4,144		5,732		965		50
3. Rents		11,737		18,022		4,503		480
Total Investment Income		$289,493		$192,383		$118,937		$82,942
INVESTMENT EXPENSE:								
8. Mortgage Service Fees	$ 9,224		$ 4,784		$ 4,919		$ 2,384	
9. Real Estate Expense	7,419		5,091		3,814		931	
10. Depreciation	3,663		3,022		2,009		625	
		20,309		12,897		10,738		3,940
						$107,682		$79,002

...CHEDULE B-2
Part III

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

Assets (Sec. 805(b)(4))

	1958			1957			1956			1955		
	Beginning	Ending	Mean	Beginning	Ending	Mean	Beginning	Ending	Mean	Beginning	Ending	Mean
Real Estate	$ 213,761	$ 547,496	$ 380,578	$ 135,774	$ 213,761	$ 174,768	$ 62,267	$ 135,774	$ 99,021	$ ---	$ 62,267	$ 31,134
Mortgages:												
without Service Fees	919,616	1,389,945	1,154,780	543,787	919,616	731,701	481,946	543,787	512,866	350,530	481,946	416,238
With Service Fees	1,675,943	2,407,699	2,041,821	1,713,227	1,675,943	1,694,585	784,924	1,713,227	1,249,076	438,061	784,924	611,492
Collateral Loans	---	---	---	74,000	---	37,000	---	74,000	37,000	---	---	---
Policy Loans, Including Premium Notes	74,083	121,104	100,094	38,830	74,083	56,457	22,475	38,830	30,652	14,347	22,475	18,711
Corporate Bonds	551,414	543,388	447,701	82,909	551,414	317,161	65,972	82,909	74,441	52,786	65,972	59,379
Stocks	665,937	1,032,286	849,111	376,184	665,937	521,061	232,803	376,184	304,493	152,578	232,803	192,691
Government Obligations	305,374	367,776	336,575	263,385	305,374	284,379	49,525	263,385	156,455	33,000	49,525	44,262
Bank Deposits, Cash, etc.	1,608,380	1,524,608	1,566,794	1,086,593	1,608,380	1,347,787	280,069	1,086,593	683,331	321,746	280,069	300,907
Other Assets:												
Accrued Interest & Investment Income	40,000	31,971	35,986	34,000	40,000	37,154	30,760	34,000	32,430	7,438	30,760	9,099
Cash Value Life Insurance Policy-Officers	9,332	14,863	12,097	9,645	9,332	9,488	---	9,645	9,823	---	---	---
Life Insurance Premiums Deferred & Uncollected	379,056	526,669	452,861	233,937	379,056	306,497	140,596	233,937	187,267	89,222	140,596	114,909
Accident & Health Premiums Due & Unpaid	119,646	266,323	192,184	45,139	119,646	81,392	34,346	45,139	43,742	15,646	34,346	25,996
	16,346,630	18,773,622	17,560,126	14,613,630	16,346,630	15,480,130	12,185,683	14,613,630	13,399,657	11,485,156	12,185,683	11,835,420

SCHEDULE B
Part IV

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

Average Interest Rate Assumed
(Sec. 805(c)(2))

Year ended December 31, 1959

(1) Nature of Reserve	(2) Assumed Morbidity or Mortality Table	(3) Assumed Interest Rate	(4) Method of Computation	(5) Amount of Reserve Beginning	(6) Amount of Reserve Ending	(7) Mean of (5) & (6)	(8) Col. (3) Times Col. (7)
Life	AE	3½ %	Ill. Std.	$2,336,460	$3,397,811	2,867,136	$100,350
Life	AE	3 %	NLP	81,383	72,458	76,921	2,308
Life	CSO-41	3½ %	CRVM	1,101	3,766	2,384	132
Life	CSO-41	3 %	CRVM	1,576,571	2,647,532	2,112,052	63,362
Life	CSO-41	2½ %	CRVM	383,204	81,733	232,469	5,812
Annuity	SA-37	2½ %	--	4,713	4,575	4,644	116
Accidental Death Benefits	DIT	3 %	--	9,360	13,130	11,245	337
Disability-Active Lives	---	3 %	--	17,545	22,222	19,884	597
Disability-Disabled Lives	---	3 %	--	2,195	3,295	2,745	82
Non-Deduction of Deferred Premiums	---	3 %	--	22,759	32,044	27,402	822
Non-Cancellable Accident & Health, CSO 2½	FPT	2½ %	--	- 0 -	5,194	2,597	65
				$4,435,290	$6,283,760	$5,359,528	$173,993

SCHEDULE E
Line 14

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

Increase in Reserves
Year ended December 31, 1959

	Balance 12/31/58	Balance 12/31/59	Increase (Decrease)
Life - Schedule B, Part IV	$4,435,290	$6,283,760	$1,848,470
Dividend Accumulations - 810(c)(4)	422,318	651,015	228,697
Unearned Premiums	1,903,547	1,803,215	(100,332)
Unpaid Losses	634,460	855,410	220,950
Life Claims	---	38,926	38,926
Supp. Contracts w/o Life Contingencies	---	25,653	25,653
	$7,395,615	$9,657,979	$2,262,364
Less Policy Holders Share of Investment Income			199,907
			$2,062,457

SCHEDULE E
Line 20

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

Schedule of Other Deductions
Year ended December 31, 1959

Commissions	$4,980,521
Increase in Loading & Cost of Collection in Excess of Loading	301,252
Taxes - Sub-Schedule E(1) Attached	292,231
Rent	78,043
Salaries & Wages	692,395
Other Employee Welfare	23,519
Legal Fees & Expense	1,197
Medical Examination Fees	18,236
Inspection Report Fees	29,391
Fees of Public Accountants & Consulting Actuaries	4,200
Investigation & Claim Settlements	76,603
Travel & Auto Expense	401,133
Advertising	31,068
Postage, Express, Telephone & Telegraph	47,520
Printing & Stationery	169,403
Depreciation - Sub-Schedule E(2) Attached	49,866
Rental of Equipment	58,252
Federal Employees Group Expense	6,232
Books & Periodicals	20,377
Bureau & Association Dues	13,229
Insurance	4,044
Collection & Bank Service Charges	1,313
Agents' Balances Charged Off	86,689
Agency Conference	52,356
Agents' Bonuses	44,039
Sundry Investment Expense Not Included Elsewhere	1,156
Loss on Sale of Autos - Aub-Schedule E(3) Attached	2,198
Maintenance & Repair - Home Office Building	27,704
Utilities	7,633
Interest Paid	11,861
	$7,533,661

Automatic

Extension Granted to 6-15-62

FORM 1120 L
U.S. Treasury Department
Internal Revenue Service

U.S. LIFE INSURANCE COMPANY INCOME TAX RETURN
FOR CALENDAR YEAR 1961

1961

Do not write in space below

Serial No. CN 560056

PLEASE TYPE OR PRINT PLAINLY

Name: STANDARD LIFE & ACCIDENT INSURANCE COMPANY

Address (Number, street, city or town, postal zone number, State): 421 N. W. 13th Street, Oklahoma City, Oklahoma

a. Date and place incorporated: January 19, 1929 - Oklahoma

b. Employer identification number: 73-0289726

c. Amount of total depreciation claimed for current year: 374,124

d. Amount of total insurance liabilities. (See Instruction P): $19,099,653

e. Amount of total depreciable assets: $1,354,395

f. Is this a consolidated return? (If "Yes," see Instruction M.) ☐ Yes ☒ No

g. Do you have any variable annuity contracts outstanding? (If "Yes," see section 801(g).) ☐ Yes ☒ No

h. State the percentage that the total of your life insurance reserves (Sec. 801 (b)), plus unearned premiums, and unpaid losses (whether or not ascertained), on noncancellable life, health, or accident policies not included in life insurance reserves, is to your total reserves (Sec. 801 (c)). Attach schedule. 71.841 %

i. Are you a burial or funeral benefit insurance company, engaged directly in the manufacture of funeral supplies or in the performance of funeral services? (If "Yes," see section 801(b).) ☐ Yes ☒ No

j. Did you file Forms 1096 and 1099 for the calendar year in connection with taxable dividends? (See General Instruction H.) ☒ Yes ☐ No

k. Did you file Forms 1096 and 1099 for the calendar year in connection with other payments? (See General Instruction H.) ☒ Yes ☐ No

LIFE INSURANCE COMPANY TAXABLE INCOME

1. (a) The taxable investment income (Schedule C)	133,275	
(b) The gain from operations (Schedule E)	(116,725)	
(c) The smaller of (a) or (b)		(116,725)
2. 50 percent of the excess, if any, of 1(b) over 1(a)		---
3. Amount subtracted from policyholders' surplus account (line 8, Schedule P)		---
4. Life insurance company taxable income (Total lines 1(c), 2, and 3)		(116,725)
5. If amount of line 4 is: (a) Not over $25,000 — Enter 30 percent of line 4 (32 percent if a consolidated return)		---
(b) Over $25,000 — Enter 52 percent of line 4 (54 percent if a consolidated return)		
Subtract $5,500, and enter difference	5,500.00	---
6. Capital gains tax (line 18, separate Schedule D, Form 1120L)		---
7. Total of lines 5 and 6		---
8. Credit allowed a domestic corporation for income taxes paid to a foreign country or U.S. possession (Submit Form 1118)		
9. Total income tax (line 7 less line 8)		NONE
10. Less: (a) Tax paid with application for extension of time in which to file		
(b) Payments and credits on 1961 Declaration of Estimated Tax		
11. If line 9 is larger than line 10, the balance is **TAX DUE** — Enter such balance here →		
12. If line 9 is less than line 10 — Enter the **OVERPAYMENT** here →		
13. Enter amount of line 12 you want: Credited on 1962 estimated tax ____ Refunded ____		

RECEIVED
JUN 15 1962
DIVISION OF INT. REV.
OKLAHOMA CITY
DIST. - #1

COMPUTATION OF TAX DUE OR REFUND

"Amended return under Section 802 of Internal Revenue Code of 1954 - Using elections made in 1959, 1960, 1961. Closing agreement attached."

SIGNATURE AND VERIFICATION (See Instruction E)

I declare under penalties of perjury that I have examined this return (including accompanying schedules and statements) and to the best of my knowledge and belief it is true, correct, and complete. If prepared by a person other than taxpayer, his declaration is based on all information of which he has any knowledge.

6/14/62 — (Date) — (Signature of officer) — President (Title)

6/9/62 — (Date) — Martin F. Bednar — (Individual or firm signature of preparer)

BEDNAR AND PERCIVAL
CERTIFIED PUBLIC ACCOUNTANTS
LIBERTY BANK BUILDING
OKLAHOMA CITY 2 (Address)

[EXHIBIT D]

SCHEDULE A.—INVESTMENT YIELD (See Instructions)

Line and Instruction No. — Gross Investment Income (Section 804(b))	1. Interest	2. Accrual of Discount	3. Amortization of Premium	4. Total (In Case of Line 1, Column 1 Plus Column 2 Less Column 3)
1. Interest on:				
(a) Wholly exempt obligations. (Attach schedule)	8,469	172	212	8,429
(b) United States Savings Bonds and Treasury bonds owned in excess of the principal amount of $5,000 issued prior to March 1, 1941				
(c) Obligations of instrumentalities of the United States issued prior to March 1, 1941				
(d) Obligations issued on or after March 1, 1941, by the United States or any agency or instrumentality thereof. (Attach schedule)	8,346		10	8,336
(e) Bonds, notes, mortgages, bank deposits, bonds, debentures, etc.	596,387	16,860	72	613,175
(f) Total	613,202	17,032	294	629,940
2. Dividends on stock of:				
(a) Domestic corporations subject to taxation under Chapter 1, I.R.C.				4,129
(b) Certain preferred stock of public utilities taxable under Chapter 1, I.R.C.				200
(c) Foreign corporations				
(d) Other corporations				
3. Rents. (Attach schedule)				32,087
4. Royalties. (Attach schedule)				
5. Leases, terminations, etc.				
6. Net short-term capital gain reduced by any net long-term capital loss (line 14, separate Schedule D, Form 1120L)				
7. Gross income from trade or business other than insurance business. (Attach schedule)				
8. GROSS INVESTMENT INCOME (total lines 1–7)				666,356
Deductions (Section 804(c))				
9. Investment expenses. (Attach schedule) (See Schedule H)				75,066
10. Real estate expenses. (Attach schedule)				27,198
11. Depreciation. (Attach schedule)				9,680
12. Depletion of mines, oil and gas wells, timber, etc. (Attach schedule)				
13. Trade or business deductions as provided in 804(c)(5). (Attach schedule)				
14. Total deductions (lines 9–13)				111,944
15. INVESTMENT YIELD (line 8 less line 14)				554,412

SCHEDULE B.—PART I—POLICY AND OTHER CONTRACT LIABILITY REQUIREMENTS (Sec. 805(a)) (See instructions)

1. Adjusted life insurance reserves (from Part VI)	10,763,704	
2. Multiplied by the adjusted reserves rate (lesser of lines 1 or 7, Part III)	3.02727 %	325,846
3. Pension plan reserves (from line 5, col. 7, Part V)	---	
4. Multiplied by the current earnings rate (line 1, Part III)	--- %	
5. Interest paid (from Part VII)		66,771
6. Policy and other contract liability requirements (total of lines 2, 4, and 5)		392,617

PART II—ASSETS (Sec. 805(b)(4))	1. Beginning of Taxable Year	2. End of Taxable Year	3. Mean of Column 1 and Column 2*
1. Real estate	771,577	1,055,994	913,786
2. Mortgages:			
(a) Without service fees	4,282,346	6,259,341	5,270,844
(b) With service fees	2,496,922	3,983,993	3,235,457
3. Collateral loans	185,681	298,268	241,974
4. Policy loans, including premium notes	364,386	563,756	464,071
5. Corporate bonds	880,049	1,110,840	995,445
6. Stocks	2,444,944	4,598,438	3,521,691
7. Government obligations, etc. (Submit detailed schedule)	530,717	9,095	269,906
8. Bank deposits, cash, etc.	1,383,771	1,310,413	1,347,092
9. Other assets (Attach schedule)	1,424,743	2,682,631	2,053,687
10. Totals	14,755,136	21,872,769	18,313,953

*Adjusted under Section 806(a) (Attach schedule)

PART III—EARNINGS RATES (Sec. 805(b))

1. Current earnings rate (line 15, Schedule A, divided by line 10, column 3, Part II)	3.02727 %
2. Earnings rate for first preceding year (Attach schedule)	2.87771 %
3. Earnings rate for second preceding year (Attach schedule)	2.76754 %
4. Earnings rate for third preceding year (Attach schedule)	3.56063 %
5. Earnings rate for fourth preceding year (Attach schedule)	3.27594 %
6. Total (lines 1–5)	15.50909
7. Average earnings rate (See instructions)	3.10182 %

PART IV—AVERAGE INTEREST RATE ASSUMED (Sec. 805(c)(2))

1. Nature of Reserve (Life, Annuity, Etc.)	2. Assumed Mortality or Morbidity Table	3. Assumed Interest Rate	4. Method of Computation (Illinois Standard, Etc.)	5. Amount of Reserve at Beginning of Taxable Year*	6. Amount of Reserve at End of Taxable Year*	7. Mean of Columns 5 and 6**	8. Column 3 times Column 7
1.							
2.							
3.							
4.							
5. Totals			SCHEDULE ATTACHED			10,570,995	339,283

6. Average rate of interest assumed in computing life insurance reserves (total of column 8 divided by total of column 7) ... 3.20957 %

PART V—PENSION PLAN RESERVES (805(d))

1. 805(d)(1)(A) reserves							
2. 805(d)(1)(B) reserves							
3. 805(d)(1)(C) reserves							
4. 805(d)(1)(D) reserves							
5. Totals							

*See Instructions for 806(b) and 818(c) adjustments **Adjusted under 806(a) (Attach schedule)

PART VI—ADJUSTED LIFE INSURANCE RESERVES (Sec. 805(c)(1))

1. Mean of the reserves (col. 7, line 5, Part IV)		10,570,995
2. (a) Multiplied by that percentage which equals	100%	
(b) Increased by 10 times the average rate of interest assumed (from line 6, Part IV)	32.0957	
(c) Total	132.0957	
(d) Reduced by 10 times the adjusted reserves rate (from line 2, Part I, Schedule B)	30.2727	
(e) Line (c) less line (d)		101.8230 %
3. Adjusted life insurance reserves (line 1 multiplied by line 2(e))		10,763,704

PART VII—INTEREST PAID (Sec. 805(e))

1. Interest on indebtedness	66,771
2. Amounts in the nature of interest	
3. Discount on prepaid premiums	
4. Total interest paid (lines 1–3)	66,771

SCHEDULE C.—TAXABLE INVESTMENT INCOME (See Instructions)

1. Policyholders' share (Sec. 804) (line 6, Part I, Sch. B, divided by line 15, Sch. A) but not to exceed 100%			70.81683 %
2. Company's share			29.18317 %
3. Total			100 %
	1. Total	2. Exclusion Policyholders' share (line 1 times col. 1)	3. Company's share (line 2 times col. 1)
4. Interest wholly tax-exempt (line 1(a), col. 4, Sch. A, see inst.)	8,429	5,969	2,460
5. Interest partially tax-exempt (lines 1(b) and (c), column 4, Sch. A)			
6. (a) Dividends from line 2(a), Schedule A	4,129	2,924	1,205
(b) Dividends from line 2(b), Schedule A	200	142	58
(c) Dividends from line 2(c), Schedule A			
(d) Dividends from line 2(d), Schedule A			
7. Other items of investment yield (line 15, Schedule A, less 4–6 above)	541,654	383,582	158,072
8. Total (Lines 4–7)	554,412	392,617	161,735
REDUCTIONS			
9. Interest wholly tax-exempt (line 4, column 3)			2,460
10. Interest partially tax-exempt (30/52 of line 5, column 3)			
11. Dividends received deduction:			
(a) 85% of dividends from line 6(a), column 3		1,024	
(b) 62.115% of dividends from line 6(b), column 3		36	
(c) 85% of dividends from *certain* foreign corporations from line 6(c), column 3			
(d) Total, but not to exceed 85% of taxable investment income (line 14) computed without regard to this deduction			1,060
12. Small business deduction (10% of line 15, Schedule A, not to exceed $25,000)			25,000
13. Total (lines 9, 10, 11(d), and 12)			28,520
14. Taxable investment income (line 8 less line 13, but not less than zero)			133,275

SCHEDULE E.—GAIN AND LOSS FROM OPERATIONS (See Instructions)

1. Policyholders' share (Sec. 809) (line 5, Sch. E-1 divided by line 15, Sch. A), but not to exceed 100%			69.88269 %
2. Company's share			30.11731 %
3. Total			100 %
	1. Total	2. Exclusion Policyholders' share (line 1 times col. 1)	3. Company's share (line 2 times col. 1)
4. Interest wholly tax-exempt (line 1(a), col. 4, Sch. A, see inst.)	8,429	5,890	2,539
5. Interest partially tax-exempt (lines 1(b) and (c), column 4, Sch. A)			
6. (a) Dividends from line 2(a), Schedule A	4,129	2,885	1,244
(b) Dividends from line 2(b), Schedule A	200	140	60
(c) Dividends from line 2(c), Schedule A			
(d) Dividends from line 2(d), Schedule A			
7. Other items of investment yield (line 15, Schedule A, less 4–6 above)	541,654	378,523	163,131
8. Total (lines 4–7)	554,412	387,438	166,974
9. Gross premiums ____ Less: Return premiums, etc. ____			27,055,682
10. (a) Decrease in reserves (after adjustment under 810(a)) (Attach schedule)			
(b) Decrease in 811(b)(2) reserves (See line 3, Part IV, Schedule E-2)			
11. Other amounts (Attach schedule) Assets Acq. thru Acq. of Other Companies			642,369
12. Total (lines 8–11)			27,865,027
DEDUCTIONS			
13. Death benefits, etc			8,654,089
14. Increase in reserves (after reduction for investment yield under 810(b)) (Attach schedule)			8,363,673
15. Assumption by another person of liabilities under insurance, etc., contracts			
16. Interest wholly tax-exempt (line 4, column 3)			2,539
17. Interest partially tax-exempt (30/52 of line 5, column 3)			
18. Investment expenses, etc., not deducted on Schedule A (Attach schedule)			
19. Small business deduction (10% of line 15, Schedule A, not to exceed $25,000)			25,000
20. Other deductions not deducted on Schedule A (Attach schedule)			12,043,749
21. Total (lines 13–20)			27,089,050
22. Dividends received deduction (See instructions):			
(a) 85% of dividends received from line 6(a), column 3	1,057		
(b) 62.115% of dividends from line 6(b), column 3	37		
(c) 85% of dividends from *certain* foreign corporations from line 6(c), column 3			
(d) Total, but not to exceed 85% of the excess, if any, of line 12 over line 21			1,094
23. Operations loss deduction (Attach schedule)			---
24. Tentative deduction (lines 21–23)			27,090,144
25. Plus: (a) Group life, accident, and health insurance (line 7, Part I, Schedule E-2)	128,195		
(b) Certain nonparticipating contracts (line 9, Part I, Schedule E-2)	268,012		
(c) Dividends to policyholders (line 11, Part I, Schedule E-2)	495,401		891,608
26. Total deductions (line 24 plus line 25)			27,981,752
27. Gain (loss) from operations (line 12 less line 26)			(116,725)

SCHEDULE E-1.—REQUIRED INTEREST (Sec. 809(a)(2))

	1. Rate	2. Beginning of Taxable Year	3. End of Taxable Year	4. Mean of Columns 2 and 3	5. Column 1 times column 4
1. 810(c)(1) Reserves (from line 5, column 8, Parts IV and V, Schedule B)					339,283
2. 810(c)(3) Reserves					
3. 810(c)(4) Reserves	3½	918,675	1,280,451	1,099,563	38,485
4. 810(c)(5) Reserves	3½	254,975	297,587	276,281	9,670
5. Required interest (Total, lines 1–4)					387,438

SCHEDULE E-2.—PART I—LIMITATION ON LINE 25, SCHEDULE E, DEDUCTION (Sec. 809(f))

1. Statutory amount		250,000
2. (a) From line 12, Schedule E	27,865,027	
(b) Less: Tentative deduction, line 24, Schedule E	27,090,144	
3. Gain from operations without regard to line 25, Schedule E	774,883	
4. Less: Taxable investment income (line 14, Schedule C)	133,275	
5. Excess of line 3 over line 4 (but not less than zero)		641,608
6. Maximum possible deduction for line 25, Schedule E (line 1 plus line 5)		891,608
7. Deduction for group life, accident, and health insurance (Part II) (Not in excess of line 6)		128,195
8. Maximum deduction for certain nonparticipating contracts (line 6 less line 7)		763,413
9. Deduction for certain nonparticipating contracts (Part III) (Not in excess of line 8)		268,012
10. Maximum deduction for dividends to policyholders (line 8 less line 9)		495,401
11. Deduction for dividends to policyholders (Part IV) (Not in excess of line 10)		495,401

PART II—GROUP LIFE, ACCIDENT, AND HEALTH INSURANCE (Sec. 809(d)(6))

1. Net premiums		6,409,773
2. Multiplied by		2%
3. Tentative deduction (Not to exceed 50% of line 1, less the total amount deducted for prior years)		128,195

PART III—CERTAIN NONPARTICIPATING CONTRACTS (Sec. 809(d)(5))

1. (a) Reserve at the end of the taxable year	6,828,223	
(b) Reserve at the beginning of the taxable year	4,148,105	
(c) Increase (If the difference is negative, enter "0")	2,680,118	
(d) Multiplied by	10%	268,012
2. (a) Net premiums	5,791,292	
(b) Multiplied by	3%	173,739
3. Tentative deduction—the greater of line 1 or line 2		268,012

PART IV—DIVIDENDS TO POLICYHOLDERS (Sec. 809(d)(3))

1. Dividends paid to policyholders		639,993
2. (a) Increased by the excess of (1) over (2):		
(1) Reserve as of the end of the taxable year	201,602	
(2) Reserve as of the end of the preceding taxable year	173,995	27,607
OR		
(b) Decreased by the excess of (1) over (2):		
(1) Reserve as of the end of the preceding taxable year		
(2) Reserve as of the end of the taxable year		
3. If positive, enter on line 11, Schedule E-2; if negative, enter on line 10(b), Schedule E		667,600

SCHEDULE F.—SHAREHOLDERS SURPLUS ACCOUNT (Sec. 815(b))

1. (a) Balance as of the end of the preceding year		173,235
(b) Transfers under 815 (d) (1) and (4) for preceding year		---
(c) Balance as of the beginning of the taxable year		173,285
2. Life insurance company taxable income computed without regard to section 802(b)(3) (line 4 less line 3, page 1)		---
3. The amount, if any, by which the net long-term capital gain exceeds the net short-term capital loss		---
4. Partially tax-exempt interest deduction (30/52 of lines 1(b) and (c), column 4, Schedule A)		---
5. Dividends received deduction:		
(a) 85% of dividends received from line 2(a), Schedule A	3,510	
(b) 62.115% of dividends received from line 2(b), Schedule A	124	
(c) 85% of dividends received from *certain* foreign corporations		
(d) Total, but not to exceed 85% of line 12 less line 21, Schedule E		3,634
6. Interest wholly exempt from tax (line 1(a), column 4, Schedule A)		8,429
7. Small business deduction (line 19, Schedule E)		25,000
8. Total (lines 1-7)		210,348
9. Less: Tax liability for 1961 under 802(a) (computed without regard to 802(b)(3))		---
10. Excess of line 8 over line 9		210,348
11. Less: Distributions in 1961 (Not to exceed line 10)		125,000
12. Balance as of the end of the taxable year (line 10 less line 11)		85,348

SCHEDULE G.—POLICYHOLDERS SURPLUS ACCOUNT (Sec. 815(c))

1. Balance as of the beginning of the taxable year		800,654
2. Add: (a) 50 percent of the excess, if any, of the gain from operations over the taxable investment income (line 2, page 1)	---	
(b) The deduction for certain nonparticipating contracts (line 25(b), Schedule E)	268,012	
(c) The deduction for group life, accident, and health insurance (line 25(a), Schedule E)	128,195	396,207
3. Total (line 1 plus line 2)		1,196,861
4. Less: (a) Actual distributions only in excess of line 10, Schedule F	---	
(b) Tax increase on 4(a) by reason of 802(b)(3)	---	
(c) Subtractions under 815 (d) (1) and (4) (See instructions)	---	
(d) Tax increase on 4(c) by reason of 802(b)(3)	---	
(e) Subtraction required under 815(d) (2) due to termination	---	
5. Total of lines 4(a)-(e) (Not to exceed line 3) (Enter here and on line 3, page 1)		---
6. Balance as of the end of the year (line 3 less line 5)		1,196,861

SCHEDULE H.—LIMITATION OF INVESTMENT EXPENSE DEDUCTION (Schedule H need not be filled in if no deduction is claimed for any general expenses that are allocated to investment income.)

1. Mean of the assets for the taxable year (line 10, column 3, Part II, Schedule B)		18,313,953
2. One-fourth of 1% of the mean of the assets (line 1)		45,785
3. Mortgage service fees		16,104
4. The greater of (a) or (b):		
(a) (i) Investment yield computed without regard to investment expenses	629,478	
(ii) Three and three-fourths percent of line 1	686,773	
(iii) Excess (line (i) over line (ii))	- 0 -	
(iv) One-fourth of line (iii)	- 0 -	
(v) Reduced by mortgage service fees (line 3)	- 0 -	
(vi) Line (iv) less line (v)		
(b) One-fourth of 1% of the amount on line 2(a), column 3, Part II, Schedule B		13,177
5. Limit on deduction for investment expenses (Total lines 2-4)		75,065

SCHEDULE J.—COMPENSATION OF OFFICERS

1. Name and Address of Officer	2. Official Title	3. Time Devoted to Business	Percent of Corporation Stock Owned		6. Amount of Compensation	7. Expense Account Allowances
			4. Common	5. Preferred		
SCHEDULE ATTACHED						

i. Did you at any time during the taxable year own directly or indirectly 50% or more of the voting stock of a domestic corporation?
☒ Yes ☐ No

m. Did any corporation, individual, partnership, trust, or association at any time during the taxable year own directly or indirectly 50% or more of your voting stock?
☐ Yes ☒ No
If either answer is "Yes," see Instruction N.

n. Did you at any time during the taxable year own directly or indirectly any stock of a foreign corporation? (If "Yes," attach statement required by General Instruction J.)
☐ Yes ☒ No

o. Did you file with the District Director a copy of the annual statement for the preceding year as required by General Instruction K?
☒ Yes ☐ No If "Yes," state office in which filed.

p. If a copy of the annual statement does not accompany this return, state why the statement is not attached.
Attached

q. Did you incur expenses in connection with:
(If answer to any question is "Yes," check applicable boxes within that question.)

(1) A hunting lodge ☐, working ranch or farm ☐, fishing camp ☐, resort property ☒, pleasure boat or yacht ☐, or other similar facility ☐? (Other than where the operation of the facility was the principal business.) Yes ☒ No ☐

(2) The leasing, renting, or ownership of a hotel room or s ☐, apartment ☐, or other dwelling ☐, which was used by customers or employees or members of their families? (Other than use by employees while in business travel status.) Yes ☐ No ☒

(3) The attendance of your employees' families at conventions or business meetings. Yes ☐ No ☒

(4) Vacations for employees or members of their families? (Other than vacation pay reported on Form W-2.) Yes ☐ No ☐

U.S. GOVERNMENT PRINTING OFFICE: 1961—O-600812

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

Schedule of Reserves - Sec. 801(d)
December 31, 1961

	BALANCE 12/31/60	BALANCE 12/31/61	MEAN
Life - Schedule B, Part IV	$ 8,615,472	$12,526,517	$10,570,995
Life Claims	50,692	81,466	66,079
Less Policy Loans	364,386	563,756	464,071
Net Life Reserves - Sec. 801(d)	$ 8,301,778	$12,044,227	$10,173,003
Other Reserves:			
Unearned Premium - A. & H.	$ 1,875,196	$ 3,930,248	$ 2,902,722
Unpaid Losses - A. & H.	378,207	1,260,362	1,069,285
Supplementary Contracts Without Life Contingencies	10,300	20,609	15,454
	$ 2,763,703	$ 5,211,219	$ 3,987,461
Total Reserves	$11,065,481	$17,255,446	$14,160,464
Life Reserves ÷ Total Reserves	75.024%	69.800%	71.841%

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

Earnings Rate
(Sec. 804(d))

	1960	1959	1958	1957
Mean of Invested Assets -				
Sub-Schedule B-2, Part III	$13,047,478	$10,056,921	$7,560,126	$5,480,130
Investment Yield -				
Sub-Schedule B-2, Part III	376,473	278,388	269,189	179,526
Earnings Rate - Line 2 ÷ Line 1	2.87731%	2.76754%	3.56063%	3.27534%

BEST COPY AVAILABLE

SUB-SCHEDULE B-1
Part III

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

Investment Yield

	1960		1959		1958		1957	
GROSS INVESTMENT INCOME:								
1. Interest:								
(a) Wholly Exempt Obligations	$ 3,103		$ 11,396		$ 12,350		$ 12,349	
(d) Obligations Issued After 3/1/41	1,761		513		657		533	
(e) Loans, Notes, etc.	421,838		270,952		246,937		144,460	
		$426,702		$282,861		$259,944		$157,342
2. Dividends:								
(a) Domestic Corporations		19,179		21,358		13,668		11,284
(b) Public Utilities		1,581		934		4,144		5,732
3. Rents		23,562		22,642		11,737		18,028
Total Investment Income		$471,023		$327,795		$289,493		$192,383
INVESTMENT EXPENSE:								
9. Investment Expense	$ 66,241		$ 31,904		$ 9,224		$ 4,784	
10. Real Estate Expense	22,994		12,402		7,418		5,051	
11. Depreciation	6,313		5,160		3,663		3,022	
		$ 95,548		$ 49,466		$ 20,305		$ 12,857
INVESTMENT YIELD		$375,475		$278,329		$269,188		$179,526

SIG-SCHEDULE B-2
Part III

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

Assets (Sec. 805(b)(4))

	1960			1959			1958			1957		
	BEGINNING	ENDING	MEAN	BEGINNING	ENDING	MEAN	BEGINNING	ENDING	MEAN	BEGINNING	ENDING	MEAN
Real Estate	$ 429,994	$ 771,577	$ 600,786	$ 547,394	$ 429,994	$ 488,694	$ 213,761	$ 547,394	$ 380,578	$ 135,774	$ 213,761	$ 174,768
Mortgages:												
Without Service Fees	1,962,600	4,282,346	3,122,473	1,389,945	1,962,600	1,676,273	919,616	1,389,945	1,154,780	543,787	919,616	731,701
With Service Fees	2,973,679	2,486,922	2,730,300	2,407,699	2,973,679	2,690,689	1,675,943	2,407,699	2,041,821	1,713,227	1,675,943	1,694,585
Collateral Loans	---	185,681	92,841	---	---	---	---	---	---	74,000	---	37,000
Policy Loans, Including Premium Notes	176,384	364,386	270,385	121,104	176,384	148,744	79,083	121,104	100,094	38,830	79,083	58,957
Corporate Bonds	734,261	880,049	807,155	543,988	734,261	639,124	351,414	543,988	447,701	82,909	351,414	217,161
Stocks	2,408,671	2,444,944	2,426,807	1,032,286	2,408,671	1,720,479	665,937	1,032,286	849,111	376,184	665,937	521,061
Government Obligations	35,117	530,717	282,917	367,776	35,117	201,446	305,374	367,776	336,575	263,385	305,374	284,379
Bank Deposits, Cash, etc.	1,588,507	1,383,771	1,486,139	1,524,608	1,588,507	1,556,558	1,608,980	1,524,608	1,566,794	1,086,593	1,608,980	1,347,787
Other Assets:												
Accrued Interest and Investment Income	51,536	90,443	70,989	30,971	51,536	41,253	20,088	30,971	25,530	14,220	20,088	17,154
Cash Value-Life Insurance Policy - Officer	20,082	---	10,041	14,863	20,082	17,473	9,332	14,863	12,097	5,645	9,332	7,488
Life Insurance Premiums Deferred & Uncollected	706,071	1,101,649	903,860	526,665	706,071	616,368	379,056	526,665	452,861	233,937	379,056	306,497
Accident & Health Premiums Due & Unpaid	253,318	232,651	242,985	266,323	253,318	259,820	118,046	266,323	192,184	45,139	118,046	81,593
	$11,340,220	$14,755,136	$13,047,678	$8,773,622	$11,340,220	$10,056,921	$6,346,630	$8,773,622	$7,560,126	$4,613,630	$6,346,630	$5,480,130

SCHEDULE S
Part IV

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

Average Interest Rate Assumed (Sec. 805(c)(2))
Year ended December 31, 1961

(1) Nature of Reserve	(2) Assumed Morbidity or Mortality Table	(3) Assumed Interest Rate	(4) Method of Computation	(5) Amount of Reserve Beginning	(6) Amount of Reserve Ending	(7) Mean of (5) & (6)	(8) Column(3) Times Column(7)
Life	AE	3½ %	Ill. Std.	$4,125,074	$ 4,609,155	$ 4,367,115	$152,849
Life	CSO 41	3½ %	CRVM	5,893	702,996	354,444	12,406
Life	CSO 41	3 %	CRVM	4,156,920	5,883,035	5,019,978	150,599
Life	CSO 41	2½ %	CRVM	121,945	275,601	198,773	4,969
Annuity	SA 37	2½ %	--	26,574	26,088	26,331	658
Accidental Death Benefits	DIT	3 %	--	15,558	23,831	19,694	591
Disability - Active Lives	---	3 %	--	47,611	48,663	48,137	1,444
Disability - Disabled Lives	---	3 %	--	3,062	4,962	4,012	120
Premium Reduction of Deferred Premiums	---	3 %	--	52,982	92,508	72,745	2,182
Non-Cancellable Accident and Health	CSO 41	2½ %	FPT	59,983	71,509	65,681	1,642
Non-Cancellable Accident and Health	CSO 41	3 %	FPT	---	788,169	394,085	11,823
				$9,615,473	$12,526,517	$10,570,995	338,283

SCHEDULE B
Line 14

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

Increase in Reserves
Year ended December 31, 1961

	BALANCE 12/31/60	BALANCE 12/31/61	INCREASE (DECREASE)
Life - Schedule B, Part IV	$ 8,615,472	$12,526,517	$3,911,045
Dividend Accumulations - 810(c)(4)	918,675	1,280,451	361,776
Unearned Premiums	1,875,196	3,930,248	2,055,052
Unpaid Losses	878,207	1,260,362	382,155
Life Claims	50,692	81,466	30,774
Supplementary Contracts Without Life Contingency	10,300	20,609	10,309
	$12,348,542	$19,099,653	$6,751,111
Less Policyholders' Share of Investment Income			387,438
			$6,363,673

SCHEDULE B
Line 20

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

Schedule of Other Deductions
Year ended December 31, 1961

Commissions	$ 4,734,860
Increase inLoading On & Cost of Collection in Excess of loading	72,139
* Amortization of Costs of Acquired Insurance Contracts	4,665,[illegible]
Taxes - Sub-Schedule E-1	28[illegible],482
Interest	56,659
Rent	100,256
Salaries & Wages	915,750
Contributions for Benefit Plans for Employees	15,582
Other Employee Welfare	35,946
Other Agent Welfare	64,538
legal Fees & Expenses	13,019
Medical Examination Fees	24,264
Inspection Report Fees	63,351
Fees of Public Accountants & Consulting Actuaries	3,774
Investigation & Settlement of Policy Claims	51,299
Travel	383,764
Advertising	59,074
Postage, Telephone & Telegraph	54,877
Printing & Stationery	74,675
Depreciation - Sub-Schedule E-2	64,444
Equipment Rental	86,643
Books & Periodicals	10,904
Bureau & Association Dues	2,905
Insurance - Except Real Estate	5,011
Miscellaneous Losses	11,961
Collection & Bank Service Charges	2,930
Agency Expense Allowance	86,885
Agents' Balances Charged Off	59,904
Agency Conferences Other Than Local Meetings	40,012
Insurance - Home Office Building	2,096
Utilities - Home Office	13,440
Maintenance & Repair - Home Office	12,808
Miscellaneous Investment Expense	8,783
Allocated to Investment Expense	(51,333)
	$12,043,748

* "This item represents the total payment made within the taxable year to Sellers of the stock of First National Life Insurance Company of America, a wholly-owned subsidiary liquidated soon after purchase and under Section 334(b) of the Code, such payments are allocable to the costs of acquiring the issued and outstanding insurance contracts. In the absence of a determinable purchase price for said subsidiary, the taxpayer has claimed the yearly payments made as representing a reasonable allowance for amortization in an amount equivalent to the payment in the taxable year, under the principles covered in Associated Patentees, Inc., 4 TC 979 (Acq.) and similar cases."

ANNUAL STATEMENT

OF THE

Standard Life and Accident Insurance Co.

of

OKLAHOMA CITY

in the

STATE OF OKLAHOMA

TO THE

Insurance Department

OF THE

STATE OF

_____

FOR THE YEAR ENDED
DECEMBER 31, 1958

1958

[EXHIBIT E]

ANNUAL STATEMENT

For the Year Ended December 31, 1958

OF THE CONDITION AND AFFAIRS OF THE

STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

Organized under the Laws of the State of OKLAHOMA, made to the INSURANCE DEPARTMENT OF THE STATE OF

PURSUANT TO THE LAWS THEREOF

Incorporated December 28, 1948 Commenced Business December 28, 1948

Home Office 421 N. W. 13th Street (Street and Number), Oklahoma City 1, Oklahoma (City or Town, Zone Number and State)

Mail Address 421 N. W. 13th Street (Street and Number), Oklahoma City 1, Oklahoma (City or Town, Zone Number and State)

OFFICERS

President Leonard H. Savage

Secretary Jack D. Oliver

Treasurer Leonard H. Savage

Vice-Presidents J. I. Gibson; F. H. Petree

Actuary George Thomas (CONSULTING ACTUARY) G. Y. Koetch

DIRECTORS OR TRUSTEES

Byron V. Boone	F. H. Petree	
J. I. Gibson	Leonard H. Savage	
Ralph C. Beard	Royce H. Savage	
J. V. Hooley		
Jack D. Oliver		

State of Oklahoma, County of Oklahoma } ss:

Leonard H. Savage, President, Jack D. Oliver, Secretary, George Thomas, Actuary,

Leonard H. Savage, Treasurer* of the Standard Life and Accident Insurance Company, being duly sworn, each for himself deposes and says that they are the above described officers of the said insurer, and that on the thirty-first day of December last, all of the herein described assets were the absolute property of the said insurer free and clear from any liens or claims thereon, except as herein stated, and that this annual statement, together with related exhibits, schedules and explanations therein contained, annexed or referred to, is a full and true statement of all the assets and liabilities and of the condition and affairs of the said insurer as of the thirty-first day of December last, and of its income and deductions therefrom for the year ended on that date, according to the best of their information, knowledge and belief, respectively.

Subscribed and sworn to before me this _____ day of _____, 1959

_____ President.

_____ Secretary.

_____ Actuary.

_____ Treasurer*.

*Or corresponding persons having charge of the accounts and finances of the insurer.

Note: The pages identified by the symbol (s) in this annual statement were reproduced by the John S. Swift Company from master forms copyright 1958 by the John S. Swift Company, Incorporated.

ASSETS

		DOLLARS	CENTS
1.	Bonds (Schedule D)	910,022.01	
2.	Stocks (Schedule D)	917,566.13	
3.	Mortgage loans on real estate (Schedule B)	3,797,644.45	
4.	Real estate (Schedule A)		
4.1	Properties occupied by the Company (less $ NONE encumbrances)	$ 579,834.93	
4.2	Properties acquired in satisfaction of debt (less $ NONE encumbrances)		
4.3	Investment real estate (less $ NONE encumbrances)	341,998.28	921,833.21
5.	Policy loans	121,103.36	
6.	Premium notes		
7.	Collateral loans (Schedule C)		
8.	Cash and bank deposits (Exhibit 13)	1,462,161.30	
9.			
10.			
10A.	Cash and invested assets $ 8,138,350.76 (Items 1 to 10)		
11.	Amounts recoverable from reinsurers (Schedule S)		
12.	Credit Deposit - Airlines	425.00	
13.	Deposits with other insurance companies	40,821.54	
14.			
15.			
16.			
17.	Life insurance premiums and annuity considerations deferred and uncollected	326,663.49	
18.	Accident and health premiums due and unpaid effective after September 30th of current year	366,322.98	
19.	Interest and other investment income due and accrued	30,971.39	
20.	Net adjustment in assets and liabilities due to foreign exchange rates		
21.	Cash value of life insurance on Company officer	34,862.74	
22.			
23.			
24.			
25.			
26.	TOTAL	9,038,419.90	

NOTE: The items on this page to agree with Exhibit 13, Col. 4.
State basis of valuation:

N. A. I. C. VALUATION OF SECURITIES

LIABILITIES, SURPLUS AND OTHER FUNDS

		DOLLARS	CENTS
1.	Aggregate reserve for life policies and contracts (Exhibit 8)	4,633,289.63	
2.	Aggregate reserve for accident and health policies (Exhibit 9, Part 1)	1,903,367.05	
3.	Supplementary contracts without life contingencies (Exhibit 10, Col. 5)		
4.	Policy and contract claims		
4.1	Life (Exhibit 11, Part 1)		
4.2	Accident and Health (Exhibit 9, Part 2)	836,459.74	
5.	Policyholders' dividend accumulations (Exhibit 10, Col. 6)	422,318.00	
6.	Policyholders' dividends due and unpaid		
7.	Provision for policyholders' dividends payable in following calendar year—estimated amounts:		
7.1	Apportioned for payment to December 31, 19 59 $ 61,615.00		
7.2	Not yet apportioned	61,615.00	
8.	Amount provisionally held for deferred dividend policies not included in Item 7		
9.	Premiums and annuity considerations received in advance less $ NONE discount; including $ NONE accident and health premiums	16,428.96	
10.	Liability for premium deposit funds	173,854.09	
11.	Policy and contract liabilities not included elsewhere:		
11.1	Surrender values on cancelled policies		
11.2			
11.3			
12.			
13.	Commissions to agents due or accrued - Life and Annuity $ ____ Accident and Health $ 37,953.78	37,953.78	
14.	General expenses due or accrued (Exhibit 5, Line 11)	31,119.74	
15.	Taxes, licenses and fees due or accrued (including $ 99,370.43 U. S. federal income tax) (Exhibit 6, Line 8)	335,036.97	
16.	"Cost of collection" on premiums and annuity considerations deferred and uncollected in excess of total loading thereon		
17.	Unearned investment income (Exhibit 3, Col. 2)	1,625.18	
18.	Amounts withheld or retained by company as agent or trustee	16,706.47	
19.	Amounts held for agents' account (including $ 19,795.33 agents' credit balances)	19,795.33	
20.	Remittances and items not allocated	34,499.76	
21.	Net adjustments in assets and liabilities due to foreign exchange rates		
22.	Liability for benefits for employees and agents if not included above		
23.	Borrowed money $ ____ and interest thereon $ ____		
24.	Dividends to stockholders declared and unpaid		
25.	Miscellaneous liabilities (give items and amounts)		
25.1	Mandatory securities valuation reserve	91,011.70	
25.2			
25.3			
25.4			
25.5			
25.6			
25.7			
25.8			
25.9			
26.	TOTAL LIABILITIES (Except Capital)	8,235,261.38	
27.	Special surplus funds:		
27.1	$ ____		
27.2			
27.3	$ ____		
28.	Capital paid-up 400,000.00		
29.	Unassigned surplus 403,158.52	403,158.52	
30.	Total of Items 27 to 29		
31.	TOTAL	9,038,419.90	

SUMMARY OF OPERATIONS
(ACCRUAL BASIS)

		DOLLARS CENTS
1.	Premiums and annuity considerations (Exhibit 1, Part 1)	
1.1	Life	4,139,399.13
1.2	Accident and health	9,274,352.77
2.	Considerations for supplementary contracts with life contingencies	
3.	Considerations for supplementary contracts without life contingencies and dividend accumulations	673,879.59
4.	Net investment income (Exhibit 2)	312,856.63
5.	Miscellaneous income	5,981.79
6.	Increase in amounts due from other companies	36,301.09
7.	TOTAL	14,442,771.00
	DEDUCT:	
8.	Death benefits	640,073.26
9.	Matured endowments	
10.	Annuity benefits	337.44
11.	Disability benefits	515.20
12.	Surrender benefits	53,086.95
12A.	Group conversions	
13.	Benefits under accident and health policies	4,117,423.47
14.	Interest on policy or contract funds	16,581.87
15.	Payments on supplementary contracts with life contingencies	
16.	Payment on supplementary contracts without life contingencies and of dividend accumulations	88,361.36
17.	Increase in aggregate reserve for policies and contracts with life contingencies	
18.	Increase in reserve for supplementary contracts without life contingencies and for dividend accumulations	1,601,037.63
19.	Increase in unearned premium reserves on accident and health policies	195,676.32
20.	Subtotal (Items 8 to 19)	6,713,091.70
21.	Commissions on premiums and annuity considerations	3,066,663.11
22.		
23.	General insurance expenses (Exhibit 5, Cols. 1 and 2, Line 13)	2,011,678.44
24.	Insurance taxes, licenses and fees (Exhibit 6, Cols. 1 and 2, Line 10)	319,858.42
25.	Increase in loading on and cost of collection in excess of loading on deferred and uncollected premiums	65,307.85
26.	Acquisition expenses of business acquired	1,736,565.11
26A.		
27.	Total (Items 20 to 26A)	13,911,144.63
28.	Net gain from operations before dividends to policyholders and excluding capital gains and losses (Item 7, minus Item 27)	531,626.37
29.	Dividends to life policyholders (Exhibit 7)	345,870.61
30.	Dividends on accident and health policies (Exhibit 7)	
31.	Increase in amount provisionally held for deferred dividend policies	
32.	TOTAL (Items 29 to 31)	345,870.61
33.	NET GAIN FROM OPERATIONS AFTER DIVIDENDS TO POLICYHOLDERS AND EXCLUDING CAPITAL GAINS AND LOSSES (Item 28 minus Item 32)	185,755.76

SURPLUS ACCOUNT

		DOLLARS CENTS			DOLLARS CENTS
34.	Special surplus funds December 31, previous year		43.	Dividends to stockholders	112,500.00
35.	Unassigned surplus December 31, previous year	325,189.07	44.		
36.			45.	Net capital losses (Exhibit 4, Col. 8)	
37.	Net gain (from Item 33)	185,755.76	46.	Increase in reserve on account of change in valuation basis	
38.	Net capital gains (Exhibit 4, Col. 6)	125,338.90	47.	Net loss from non-admitted and related items (Exhibit 14, Col. 3, Line 40)	65,517.92
39.	Surplus paid in		48.	Increase in mandatory securities valuation reserve	33,107.29
40.	Net gain from non-admitted and related items (Exhibit 14, Col. 3, Line 40)		49.	Special surplus funds December 31, current year (Item 27, page 3)	
41.	Decrease in mandatory securities valuation reserve		50.	Unassigned surplus December 31, current year (Item 29, page 3)	403,158.52
42.	TOTAL	636,283.73	51.	TOTAL	636,283.73

ANNUAL STATEMENT FOR THE YEAR 1958 OF THE STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

ANALYSIS OF OPERATIONS BY LINES OF BUSINESS

(Gain and Loss Exhibit)

	Total (1)	Industrial Life (Including Total and Permanent Disability and Accidental Death Benefits) (2)	Ordinary: Life Insurance (3)	Ordinary: Total and Permanent Disability (4)	Ordinary: Accidental Death (5)	Ordinary: Individual Annuities (6)	Ordinary: Supplementary Contracts (7)	Group: Life Insurance (8)	Group: Annuities (9)	Accident and Health: Group (10)	Accident and Health: Individual (11)
1. Premiums and annuity considerations (Exhibit 1, Part 1)	13,413,751.90		3,019,442.61	34,983.04	24,138.48		X X X	1,060,835.02		1,790,153.17	7,484,199.60
2. Premiums for supplementary contracts with life contingencies			X X X	X X X	X X X	X X X				X X X	X X X
3. Premiums for supplementary contracts without life contingencies and dividend accumulations	673,879.59		673,879.59								
4. Net investment income (Exhibit 2)	312,856.63		297,049.85	704.04	592.92	210.89		14,298.93			
5. Miscellaneous Income	5,981.79		5,981.79								
6. Increase in amounts due from other companies	36,301.09		36,301.09								
7. Total	14,442,771.00		4,032,634.93	35,687.08	24,731.38	210.89		1,075,133.95		1,790,153.17	7,484,199.60
8. Death benefits	640,073.26		165,916.83	X X X	1,500.00	X X X		472,656.43	X X X	X X X	X X X
9. Matured endowments				X X X	X X X	X X X			X X X	X X X	X X X
10. Annuity benefits	337.44		X X X	X X X	X X X	337.44		X X X		X X X	X X X
11. Disability benefits	515.20		X X X	515.20	X X X					X X X	X X X
12. Surrender benefits	53,086.95		53,086.95	X X X	X X X	X X X			X X X	X X X	X X X
12A. Group conversions					X X X	X X X			X X X		
13. Benefits under accident and health policies	4,117,423.47	X X X	X X X	X X X	X X X	X X X	X X X	X X X	X X X	1,341,695.44	2,775,728.03
14. Interest on policy or contract funds	16,581.87		16,581.87								
15. Payments on supplementary contracts with life contingencies			X X X	X X X	X X X	X X X				X X X	X X X
16. Payments on supplementary contracts without life contingencies and of dividend accumulations	88,361.36		88,361.36								
17. Increase in aggregate reserve for policies and contracts with life contingencies	1,796,712.15		1,484,684.83	7,349.13	-8,170.33	-138.00		117,112.00		20,102.26	175,372.26
18. Increase in reserves for supplementary contracts without life contingencies and for dividend accumulations											
19.											
20. Subtotal (Items 8 to 19)	6,713,091.70		1,808,631.84	8,044.33	-6,670.33	199.44		589,768.43		1,361,797.70	2,951,300.29
21. Commissions on premiums and annuity considerations	3,066,643.11		901,476.76	8,175.44	5,872.31			353,153.18		282,244.99	1,515,720.43
22.											
23. General insurance expenses (Exhibit 3, Cols. 1 and 2, Line 13)	2,011,678.44		803,124.10	11,943.72	7,989.83			100,549.61		217,613.84	870,435.34
24. Taxes, licenses and fees (Exhibit 6, Cols. 1 and 2, Line 10)	319,858.42		23,508.96	231.88	173.67			5,210.18		44,251.27	244,482.46
25. Increase in loading on and cost of collection in excess of loading on deferred and uncollected premiums	65,307.85		62,560.94	736.79	490.92			1,499.20			1,736,565.11
26. Acquisition Expense of Business Acquired	1,736,565.11										
27. Total (Items 20 to 26)	13,911,144.63		3,601,302.60	29,196.16	7,850.40	199.44		1,050,180.58		1,905,907.80	7,316,503.65
28. Net gain from operations before dividends to policyholders and excluding capital gains and losses (Item 7 minus Item 27)	531,626.37		431,332.33	6,492.92	16,874.98	11.45		24,953.37		-145,619.32	197,560.64
29. Dividends to life policyholders (Exhibit 7)	345,870.61		345,870.61							X X X	X X X
30. Dividends on accident and health policies (Exhibit 7)		X X X	X X X	X X X	X X X	X X X	X X X	X X X	X X X	X X X	X X X
31. Increase in amounts provisionally held for deferred dividend policies											
32. Total (Items 29 to 31)	345,870.61		345,870.61								
33. Net gain from operations after dividends to policyholders and excluding capital gains and losses (Item 28 minus Item 32)	185,755.76		85,461.72	6,492.92	16,874.98	11.45		24,953.37		-145,619.32	197,560.64

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Form 1

ANNUAL STATEMENT FOR THE YEAR 1958 OF THE STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

(Name of Every Home)

99

ANALYSIS OF INCREASE IN RESERVES DURING THE YEAR

(Gain and Loss Exhibit)

	TOTAL (1)	INDUSTRIAL LIFE (Including Total and Permanent Disability and Accidental Death Benefits) (2)	ORDINARY					GROUP	
			Life Insurance (3)	Total and Permanent Disability (4)	Accidental Death Benefits (5)	Individual Annuities (6)	Supplementary Contracts (7)	Life Insurance (8)	Annuities (9)
1. Reserve Dec. 31 of previous year	3,236,570.00		2,991,856.00	12,190.00	17,530.00	4,851.00		230,143.00	
2. Tabular net premiums or considerations	2,280,939.00		1,719,313.00	16,791.00	13,317.00			531,313.00	
3. Considerations for supplementary contracts without life contingencies and dividend accumulations	700,182.00		700,182.00						
4. Present value of disability claims incurred	2,194.57		X X X	2,194.57	X X X		X X X		
5. Tabular interest	147,111.00		131,143.00	1,362.00	606.00	141.00		13,859.00	
6. Tabular less actual reserve released	38.44	X X X	X X X		X X X	38.44			
7. Increase in reserve on account of change in valuation basis									
8. Other increases (net)									
9. TOTALS (Items 1 to 8)	6,367,055.01		5,342,496.00	32,538.57	31,453.00	5,050.44		775,317.00	
10. Tabular cost	1,256,356.01		807,393.17	12,284.44	8,817.00		X X X	428,062.00	
11. Reserves released by death	21,147.00		21,147.00	X X X	X X X	X X X	X X X		X X X
12. Reserves released by other terminations (net)	162,330.33		149,034.00		13,476.33				
13. Annuity, supplementary contract, disability and accumulated dividend payments	89,213.44		88,361.00	515.00		337.44			
14. TOTAL DEDUCTIONS (Items 10 to 13)	1,529,447.38		1,065,933.17	12,799.44	22,293.33	337.44		428,062.00	
15. Reserve Dec. 31 of current year	4,837,607.63		4,476,562.83	19,739.13	9,159.67	4,713.00		347,255.00	

Form 1

ANNUAL STATEMENT FOR THE YEAR 1958 OF THE STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

(Full or Exact Name)

EXHIBIT 1

		TOTAL (1)	INDUSTRIAL LIFE (Including Total and Permanent Disability and Accidental Death Benefits) (2)	ORDINARY: Life Insurance (3)	ORDINARY: Total and Permanent Disability (4)	ORDINARY: Additional Accidental Death (5)	ORDINARY: Individual Annuities (6)	GROUP: Life Insurance (7)	GROUP: Annuities (8)	ACCIDENT AND HEALTH: Group (9)	ACCIDENT AND HEALTH: Individual (10)	
	PART 1—Premiums and Annuity Considerations (Gross, Less Reinsurance)											
CURRENT YEAR	FIRST YEAR (Other Than Single)											
	1. Uncollected	25,929.62		23,884.00	39.56	-13.94						1.
	2. Deferred	206,876.31		203,338.47	1,829.84	1,688.00						2.
	3. Line 1 + Line 2	232,805.93		229,242.47	1,889.40	1,674.06						3.
	4. Advance											4.
	5. Line 3 — Line 4	232,805.93		229,242.47	1,889.40	1,674.06						5.
	6. Collected during year	1,145,180.97		1,128,759.71	9,497.60	6,923.86						6.
	7. Line 5 + Line 6	1,377,986.90		1,358,002.18	11,386.80	8,597.92						7.
	8. Previous year (uncollected + deferred — advance)	178,421.03		174,568.60	2,319.90	1,333.53						8.
	9. First year premiums and considerations Line 7 — Line 8	1,199,565.87		1,183,433.58	8,867.90	7,264.39		INCLUDED IN RENEWAL				9.
	SINGLE											
	10. Single premiums and considerations	825,217.45						603,626.78		221,590.67		10.
	RENEWAL											
CURRENT YEAR	11. Uncollected	446,020.56		87,864.46	1,491.49	1,075.57		109,266.06		94,145.36	172,177.62	11.
	12. Deferred	401,827.02		396,313.57	4,496.32	3,016.93						12.
	13. Line 11 + Line 12	847,847.58		484,178.03	5,988.01	4,092.50		109,266.06		94,145.36	172,177.62	13.
	14. Advance	16,428.96		14,912.99	159.09	129.81		1,227.05				14.
	15. Line 13 — Line 14	831,418.66		467,265.04	5,828.92	3,962.69		108,039.01		94,145.36	172,177.62	15.
	16. Collected during year	11,083,128.75		1,711,603.32	23,919.18	16,922.11		427,098.68		1,506,233.98	7,398,251.48	16.
	17. Line 15 + Line 16	11,914,547.39		2,178,868.36	29,748.10	20,884.80		535,137.69		1,600,379.34	7,570,429.10	17.
	18. Previous year (uncollected + deferred — advance)	345,378.81		342,859.33	3,632.96	3,110.73		77,929.43		31,816.84	86,229.50	18.
	19. Renewal premiums and considerations Line 17 — Line 18	11,388,968.58		1,836,009.03	26,115.14	18,674.07		457,208.26		1,568,562.50	7,484,199.60	19.
	TOTAL											
	20. Total premiums and annuity considerations Lines 9, 10 and 19 (to agree with Item 1, Page 4)	13,413,751.90		3,019,442.61	34,983.04	26,138.46		1,060,835.02		1,790,153.17	7,484,199.60	20.
	PART 2—Dividends Applied, Reinsurance Ceded and Commissions Incurred											
	DIVIDENDS APPLIED (Included in Part 1)											
	21. To pay renewal premiums (Exhibit 7, Line 1)	103,496.13		103,496.13								21.
	22. All other (Exhibit 7, Lines 2, 3 and 4)	376.30		376.30								22.
	REINSURANCE CEDED (Deducted in Part 1)											
	23. First year (other than single)	19,742.59		18,751.71	393.42	397.46						23.
	24. Single											24.
	25. Renewal	96,356.94		68,297.39	3,888.02	5,268.14		4,479.40		512.05	13,911.94	25.
	COMMISSIONS INCURRED											
	26. First year (other than single)	806,871.99		795,301.89	6,691.68	4,878.42						26.
	27. Single	336,533.18						336,533.18				27.
	28. Renewal	1,923,237.94		106,174.87	1,483.76	993.89		16,619.98		282,344.99	1,515,720.45	28.
	29. Total (to agree with Item 21, Page 5)	3,066,643.11		901,476.76	8,175.44	5,872.31		353,153.16		282,344.99	1,515,720.45	29.

EXHIBIT 2—NET INVESTMENT INCOME
(Accrual Basis)

	DOLLARS	CENTS
1. Total interest, dividends and real estate income (Exhibit 3, Col. 7, Line 10)	359,542.15	
2. Investment expenses (Exhibit 5, Col. 3, Line 13)	32,465.26	
3. Taxes, licenses and fees (Exhibit 6, Col. 3, Line 10)	8,220.26	
4. Depreciation on real estate	6,000.00	
5.		
6. TOTAL (Lines 2 to 5 inclusive)	46,685.52	
7. NET INVESTMENT INCOME — Line 1 less Line 6 (to Item 4, Page 4)	312,856.63	
8. Ratio of net investment income to mean assets (see instructions)	4.41	%
9. Ratio of net investment income to mean assets before federal income tax, if any, included in line 3	4.41	%

EXHIBIT 3—INTEREST, DIVIDENDS AND REAL ESTATE INCOME

	COLLECTED DURING YEAR (1)	CURRENT YEAR: UNEARNED (2)	CURRENT YEAR: DUE (3)	CURRENT YEAR: ACCRUED (4)	CURRENT YEAR: NON-ADMITTED (5)	PREVIOUS YEAR (2)+(4)−(3)−(5) (6)	EARNED DURING YEAR (1)−(2)+(3)+(4)−(5)−(6) (7)
1. Interest on bonds	34,376.68			13,134.13		8,441.96	39,068.85
2. *Dividends on stocks	17,811.45						17,811.45
3. Interest on mortgage loans	148,085.42			17,837.26		11,581.45	154,341.23
4. Real estate income	81,736.82						81,736.82
5. Interest on premium notes, policy loans and liens	6,044.59	1,625.18				-771.99	5,211.40
6. Interest on collateral loans							
7. Interest on bank, other deposits, investments	61,372.38						61,372.38
8.							
9.							
10. TOTALS	349,447.36	1,625.18	NONE	30,971.39	NONE	19,251.40	359,542.15

*Includes $ 1,226.66 accrual of discount less $ 279.77 amortization of premium and less $ 634.26 paid for accrued interest on purchases.
†Includes $ NONE paid for accrued dividends on purchases.
**Includes $ 16,996.65 accrual of discount less $ NONE amortization of premium and less $ 3,474.75 paid for accrued interest on purchases.
***Includes $ 70,000.00 for company's occupancy of its own buildings; and excludes $ NONE interest on encumbrances.

Bonds	NONE
Stocks	NONE
Collateral loans	NONE
Mortgage loans	NONE
Real estate	NONE
Bank deposits	NONE

*EXHIBIT 4—CAPITAL GAINS AND LOSSES ON INVESTMENTS

	INCREASE IN BOOK VALUE (1)	PROFIT ON SALE OR MATURITY (2)	DECREASE IN BOOK VALUE (3)	LOSS ON SALE OR MATURITY (4)	NET GAIN (+) OR LOSS (−) FROM CHANGE IN DIFFERENCE BETWEEN BOOK AND ADMITTED VALUES (5)	NET GAINS (+) OR LOSSES (−) (1)+(2)−(3)−(4)+(5) (6)
1. Bonds				1,250.00	(a) 9,777.55	(a) 8,527.55
2. Stocks		2,371.25			(a) 116,440.10	(a) 118,811.35
3. Mortgage loans						
4. Real estate						
5. Premium notes, policy loans and liens						
6. Collateral loans						
7. Cash and bank deposits						
8. Foreign exchange						
9.						
10. TOTALS		2,371.25		1,250.00	(a) 126,217.65	(a) 125,338.90
DISTRIBUTION OF LINE 10, COL. (6). (Attach statement or memorandum explaining basis of division).						
11. Net realized capital gains (+) or losses (−) on assets disposed of during the year $ (a) 1,371.25, less $ NONE reflected in previous years' statements						(a) 1,371.25
12. Net unrealized capital gains (+) or losses (−) of the year						(a) 126,217.65

*Adjustments due to amortization to be reported in Exhibit 3.
**Including $ 6,000.00 depreciation on real estate as listed in Exhibit 3, Line 6.

EXHIBIT 5—GENERAL EXPENSES

	INSURANCE: LIFE (1)	INSURANCE: ACCIDENT AND HEALTH (2)	INVESTMENT (3)	TOTAL (4)
1. Rent	99,979.43	49,886.24		149,865.67
2. Salaries and wages	331,603.15	475,231.53		806,834.68
3.11 *Contributions for benefit plans for employees				
3.12 *Contributions for benefit plans for agents				
3.21 Payments to employees under non-funded benefit programs				
3.22 Payments to agents under non-funded benefit programs				
3.31 Other employee welfare	683.77	1,025.66		1,709.43
3.32 Other agent welfare				
3.4				
4.1 Legal fees and expenses	326.43	979.30		1,305.73
4.2 Medical examination fees	16,580.37			16,580.37
4.3 Inspection report fees	35,488.39	6,559.56		42,047.95
4.4 Fees of public accountants and consulting actuaries	4,887.50	862.50		5,750.00
4.5 Expense of investigation and settlement of policy claims	6,140.93	55,482.80		61,623.73
4.6				
5.1 Traveling expenses	101,866.40	301,704.06		403,570.46
5.2 Advertising	20,307.15	9,313.76		29,620.91
5.3 Postage, express, telegraph and telephone	33,448.01	57,339.52		90,787.53
5.4 Printing and stationery	48,597.28	72,054.23		120,651.51
5.5 Cost or depreciation of furniture and equipment	34,556.49	4,037.66		38,594.15
5.6 Rental of equipment	27,836.76	1,956.51		29,793.27
5.7 Federal Employees Group Expenses	4,769.28			4,769.28
6.1 Books and periodicals	8,577.06	2,859.02		11,436.08
6.2 Bureau and association dues	9,859.22	1,739.87		11,599.09
6.3 Insurance, except on real estate	4,259.21	7,909.95		12,169.16
6.4 Miscellaneous losses				
6.5 Collection and bank service charges	1,699.26	1,132.84		2,832.10
6.6 Sundry general expenses	27,988.06	14,299.67		42,287.73
6.7 Group service and administration fees				
6.8				
7.1 Agency expense allowance				
7.2 Agents' balances charged off (less $ NONE recovered)	28,916.61	9,638.21		38,554.82
7.3 Agency conferences other than local meetings	31,937.40			31,937.40
8.1 Agents' bonuses	31,272.13	9,332.61		40,604.74
8.2				
9.1 Real estate expenses			32,465.26	32,465.26
9.2 Investment expenses not included elsewhere				
9.3				
10. GENERAL EXPENSES PAID	921,796.27	1,083,693.50	32,465.26	2,037,955.03
11. General expenses unpaid December 31, current year	(To Line 37.1, Exhibit 11) 11,545.47	(To Line 37.2, Exhibit 11) 19,574.37	(To Line 37.3, Exhibit 11)	31,119.84
12. General expenses unpaid December 31, previous year	9,732.43	16,598.64		26,331.07
13. General expenses incurred during year (10+11—12)	923,609.26	1,086,669.18	32,465.26	2,042,743.80
	To Line 32, Page 4		To Line 1, Exhibit 2	

A. Compensation to agents on a plan other than commissions, included in Col. (1): First year $ NONE, Renewal $ NONE
B. Agency supervision, except Home Office, included in Col. (1): Line 2 $ NONE, Line 3.1 $ NONE, Line 5 $
C. Branch office expenses other than those in A and B included in Col. (1): Line 1 $ NONE, Line 2 $ NONE, All other lines $ NONE

*These items include $ on account of prior service.

EXHIBIT 6—TAXES, LICENSES AND FEES

	INSURANCE: LIFE (1)	INSURANCE: ACCIDENT AND HEALTH (2)	INVESTMENT (3)	TOTAL (4)
1. Real estate taxes			7,952.19	7,952.19
2. State insurance department licenses and fees	5,377.41	8,679.47		14,056.88
3. State taxes on premiums	61,036.72	80,950.69		141,985.41
4. Other state taxes, incl. $ 5,805.53 Social Security	4,961.16	6,834.66		11,795.82
5.1 U. S. federal income tax	3,533.76	86,108.19		89,641.95
5.2 Other U. S. federal taxes, incl. $ 20,473.43 Social Security	9,221.65	14,083.29		23,304.94
6. All other taxes				
TAXES, LICENSES AND FEES PAID	86,114.72	196,676.30	7,952.19	288,743.21
8. Taxes, licenses and fees unpaid December 31, current year	(To Line 38.1, Exhibit 11) 78,111.69	(To Line 38.2, Exhibit 11) 252,652.64	(To Line 38.3, Exhibit 11) 4,273.64	335,038.97
9. Taxes, licenses and fees unpaid December 31, previous year	131,031.52	160,815.01	4,004.97	295,701.50
10. Taxes, licenses and fees incurred during year (7+8—9)	33,194.89	288,513.93	8,220.26	328,078.68
	To Line 33, Page 4		To Line 2, Exhibit 2	

NOTE: Censuses and other foreign taxes are included appropriately on Lines 1, 2, 3, 4 and 6.

EXHIBIT 7—DIVIDENDS TO POLICYHOLDERS

	LIFE	ACCIDENT AND HEALTH
1. Applied to pay renewal premiums	103,496.13	
2. Applied to shorten the endowment or premium-paying period	376.30	
3. Applied to provide paid-up additions		
4. Applied to provide paid-up annuities		
5. TOTAL LINES 1-4	103,872.43	
6. Paid in cash	27,887.98	
7. Left on deposit with the company	188,795.20	
8.		
9. TOTAL LINES 5-8	320,555.61	
10. Amount due and unpaid (Item 8, page 3)		
11. Provision for annual dividend policies, including $ None terminal dividends (Item 2, page 3, in part)	61,615.00	
12. Provision for deferred dividend policies (Item 7, page 3, in part)		
13. [illegible]	34,615.00	
14. Line 12 of prior year	36,560.00	
15. Increase (Decrease) in Policy Dividends (Lines 9+13−14)	365,870.61	
	(To Item 22, Page 4)	(To Item 30, Page 4)

EXHIBIT 8—AGGREGATE RESERVE FOR LIFE POLICIES AND CONTRACTS

Valuation Standard (Indicate mortality and interest basis and valuation method by years of issue and in the case of annuities indicate whether immediate, deferred or both) (1)	Total (2)	Industrial (3)	Ordinary (4)	Group (5)
A. Life Insurance:				
1. Amer. Exp. 3½% (1944-1958) Illinois Std.	2,381,611.00		2,381,611.00	
2. Amer. Exp. 3% (1949-1957) Net Level Premium	82,956.00		82,956.00	
3. Comm. Std. Ord. 3½% (1957-) CRVM	1,122.00		1,122.00	
4. Comm. Std. Ord. 3% (1951-) CRVM	1,607,037.00		1,607,037.00	
5. Comm. Std. Ord. 2½% (1941-) CRVM	383,899.00		36,644.00	347,255.00
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				
21.				
22.				
23. Total (Gross)	4,456,625.00		4,109,370.00	347,255.00
24. Reinsurance	77,906.00		77,906.00	
25. Total (Net)	4,378,719.00		4,031,464.00	347,255.00
B. Annuities (excluding supplementary contracts with life contingencies):				
1. 1937 Std. Ann. (Mod.) 2½%	4,713.00	X X X	4,713.00	
2.		X X X		
3.		X X X		
4.		X X X		
5.		X X X		
6.		X X X		
7.		X X X		
8.		X X X		
9.		X X X		
10.		X X X		
11.		X X X		
12.		X X X		
13.		X X X		
14.		X X X		
15.		X X X		
16.		X X X		
17.		X X X		
18.		X X X		
19.		X X X		
20.		X X X		
21.		X X X		
22.		X X X		
23. Total (Gross)	4,713.00	X X X	4,713.00	
24. Reinsurance		X X X		
25. Total (Net)	4,713.00	X X X	4,713.00	
C. Supplementary Contracts With Life Contingencies:				
1.				
2.				
3.				
4.				
5. Total (Gross)				
6. Reinsurance				
7. Total (Net)				
D. Accidental Death Benefits:				
1. 1926-1933 Double Indemnity Table, 3%	13,952.24		13,952.24	
2.				
3.				
4.				
5. Total (Gross)	13,952.24		13,952.24	
6. Reinsurance	4,592.57		4,592.57	
7. Total (Net)	9,359.67		9,359.67	
E. Disability—Active Lives:				
1. 1926 Class (3) Table, 3% (150% Mod.)	20,295.00		20,295.00	
2.				
3.				
4.				
5.				
6.				
7. Total (Gross)	20,295.00		20,295.00	
8. Reinsurance	2,750.44		2,750.44	
9. Total (Net)	17,544.56		17,544.56	
F. Disability—Disabled Lives:				
1. 1926 Class (3) Table, 3% (150% Mod.)	2,796.57		2,796.57	
2.				
3.				
4.				
5.				
6.				
7. Total (Gross)	2,796.57		2,796.57	
8. Reinsurance	600.00		600.00	
9. Total (Net)	2,196.57		2,196.57	

EXHIBIT 8—AGGREGATE RESERVE FOR LIFE POLICIES AND CONTRACTS (Continued)

Valuation Standard (Indicate mortality and interest basis and valuation method by years of issue) (1)	Total (2)	Industrial (3)	Ordinary (4)	Group (5)
G. Miscellaneous Reserves:				
1. For excess of valuation net premiums over corresponding gross premiums on respective policies computed according to the standard of valuation required by this state	22,758.83		22,758.83	
2. For non-deduction of deferred fractional premiums or return of premiums at the death of the insured				
3. For surrender values in excess of reserves otherwise required and carried in this schedule				
4.				
5.				
6.				
7. Total (Gross)	22,758.83		22,758.83	
8. Reinsurance				
9. Total (Net)	22,758.83		22,758.83	
H. Grand Total (Net)—Item 1, Page 3	4,435,289.63		4,088,034.63	347,255.00

EXHIBIT 8A—CHANGES IN BASES OF VALUATION DURING THE YEAR
(Including supplementary contracts set up on a basis other than that used to determine benefits)

	Description of Valuation Class	Valuation Bases: Changed from	Valuation Bases: Changed to	Increase in Actuarial Reserves Due to Change
1.	NONE			
2.				
3.				
4.				
5.				
6.				
7.	Total (to agree with Item 7, Page 6)			

GENERAL INTERROGATORIES

1. Has the company ever issued both participating and non-participating policies? Answer: Yes
2. Does the company at present issue both participating and non-participating policies? Answer: Yes
If not, state which kind is issued.
Answer: . . .
3. State the amount of insurance, if any, on which the gross premiums are less than the net premiums according to the standard of valuation required by this State.
Answer: $ None
The additional reserve to cover deficiencies in gross premiums must be included in Exhibit 8. If not reported in G, 1 above, state amount: $ Not Applicable
4. Does the Company waive deduction of deferred fractional premiums at death on any of its insurance?
Answer: Yes, on C,S,O, issues

5. State the amounts of insurance in force under each of the following plans:

	Non-Participating	Participating: Annual Div.	Participating: Def. Div.
Industrial	None	None	None
Ordinary	$ 21,014,986	$96,836,535	None
Group	111,708,415	None	None
Totals	132,723,401	96,836,535	

6. Is any surrender value promised in excess of the reserve as legally computed? Answer: No If so, the amount of such excess must be included in C,3 above. Has this been done? Answer:

7. Attach statement of methods employed in the valuation of policies issued at, or subsequently subject to, an extra premium or in the valuation of policies where war or aviation risks excluded as substandard in the plan of contract issued or on special class lives continuing past age 70 as insurance.
8. Has the company any assessments or impaired premium policies in force?
Answer: No If so, state:
Amount of insurance $
Amount of reserve $
Basis of reserve:
Basis of regular assessments:
Basis of special assessments:
Assessments collected during year $

EXHIBIT 9—AGGREGATE RESERVE AND POLICY CLAIM LIABILITY FOR ACCIDENT AND HEALTH POLICIES

	Total (1)	Group Accident and Health (2)	Individual Policies: Accident Only (3)	Individual Policies: Accident and Health (4)	Individual Policies: Non-Cancellable Accident and Health (5)	Individual Policies: Hospital and Medical Expense (6)
PART 1—Aggregate Reserve						
1. Unearned premium reserve	1,912,931.15	118,812.17	782,609.24	10,165.63		1,001,344.11
2. Additional reserves for guaranteed renewable policies						
3. Present value of amounts not yet due on claims						
4. Reserve for future contingent benefits (deferred maternity and other similar benefits)						
5.						
6.						
7. Total (Gross)	1,912,931.15	118,812.17	782,609.24	10,165.63		1,001,344.11
8. Reinsurance	9,384.10		2,245.32	7,138.98		
9. Total (Net) (to Item 2, Page 3)	1,903,547.05	118,812.17	780,364.12	3,026.65		1,001,344.11
PART 2—Policy Claim Liability End of Current Year						
1. Due and unpaid	636,459.74	206,802.15	108,018.77	5,976.61		313,644.21
2. In course of settlement						
3. Incurred but unreported (less reinsurance)						
4. Total	636,459.74	206,802.15	108,018.77	5,976.61		313,644.21
5. Less reinsurance on reported claims (Schedule S)						
6. Net Liability (to Item 4.2, Page 3)	636,459.74	206,802.15	108,018.77	5,976.61		313,644.21

Exclude portion of liability applicable to annuity "accrued" payments. Reserve for unaccrued payments appears in Item 2, Page 3 (see Part 1).

EXHIBIT 10—SUPPLEMENTARY CONTRACTS WITHOUT LIFE CONTINGENCIES AND DIVIDEND ACCUMULATIONS

	Valuation Rate (1)	Contract Rate or Rates (2)	Supplementary Contracts without Life Contingencies: Present Value of Amounts Not Yet Due (3)	Supplementary Contracts without Life Contingencies: Amounts Left on Deposit (4)	Supplementary Contracts without Life Contingencies: Totals (5)	Dividend Accumulations (6)
1.	3 1/2%	3 1/2%				422,318.00
2.						
3.						
4.						
5.						
6.						
7.	Totals (to per Items 3 and 5, Page 3)					422,318.00

Enter rate(s) used or state corresponding to each valuation rate.

EXHIBIT 11—POLICY AND CONTRACT CLAIMS FOR OTHER THAN ACCIDENT AND HEALTH POLICIES

PART 1—Liability End of Current Year

	Total (1)	Industrial Life (Excluding Total and Permanent Disability and Accidental Death Benefits) (2)	Ordinary: Life Insurance (3)	Ordinary: Total and Permanent Disability (4)	Ordinary: Additional Accidental Death (5)	Ordinary: Individual Annuities (6)	Ordinary: Supplementary Contracts (7)	Group: Life Insurance (8)	Group: Annuities (9)
1. Due and unpaid									
2. In course of settlement:									
2.1 Resisted				NONE					
2.2 Other									
3. Incurred but unreported (less reinsurance)									
4. Total									
5. Less reinsurance on reported claims (Schedule S)									
6. Net Liability (Column 1 to Item 4.1, Page 3)		*	**						

*Including matured endowments unpaid amounting to $ **Including matured endowments unpaid amounting to $
This net reserve portion of liability applicable to assumed "accrued" payments. Reserve for unaccrued payments $ appears on Item 1, Page 3. (See Exhibit 8, Section F.)

PART 2—Incurred During the Year

	Total (1)	Industrial Life (Excluding Total and Permanent Disability and Accidental Death Benefits) (2)*	Ordinary: Life Insurance (3)**	Ordinary: Total and Permanent Disability (4)	Ordinary: Additional Accidental Death (5)	Ordinary: Individual Annuities (6)	Ordinary: Supplementary Contracts (7)	Group: Life Insurance (8)	Group: Annuities (9)
1. Settlements during the year	648,723.90		173,416.83	615.20	1,500.00	337.44		472,656.43	
2. Deduct reinsurance	7,800.00		7,500.00	300.00					
3. Net settlements (Line 1 minus Line 2)	640,923.90		165,916.83	315.20	1,500.00	337.44		472,656.43	
4. Net liability December 31, current year from Part 1									
5. Amounts recoverable from reinsurers December 31, previous year									
6. Line 3 plus Line 4 plus Line 5	640,923.90		165,916.83	315.20	1,500.00	337.44		472,656.43	
7. Net liability December 31, previous year									
8. Amounts recoverable from reinsurers December 31, current year (Schedule S)									
9. Line 7 plus Line 8									
10. Net Incurred Claims (Line 6 minus Line 9)	640,923.90	NONE	165,916.83	315.20	1,500.00	337.44		472,656.43	

*Including matured endowments amounting to $ NONE in Line 1 and $ NONE in Line 10. **Including matured endowments amounting to $ NONE in Line 1 and $ NONE in Line 10.
†Excess sum of Lines 10.1, 17 and 21, Exhibit 12, includes $ 315.20 premiums waived under total and permanent disability benefits.

EXHIBIT 12—RECONCILIATION OF LEDGER ASSETS

			DOLLARS	CENTS
INCREASES IN LEDGER ASSETS				
1.	Premiums on life policies and annuity considerations (see Exhibit 1, Part 1)			3,927,451.04
2.	Accident and health cash premiums, including $ ..... policy, membership and other fees			9,126,076.13
3.	Consideration for supplementary contracts with life contingencies			
4.	Consideration for supplementary contracts without life contingencies including $ ..... disability and coupons			
5.	Dividends left with the Company to accumulate at interest			673,879.59
6.	Interest, dividends and real estate income (Exhibit 3, Column 1)			349,447.34
7.	Increase of paid-up capital during the year			
8.	From other sources (give items and amounts):			
8.1	Increase in Suspense Accounts			35,283.59
8.2	Increase in Reserve for Taxes Withheld from Salaries			377.20
8.3				
9.	Borrowed money gross $ ....., less amount repaid $			
10.	Miscellaneous Income			451.00
11.				
12.				
13.	From sale or maturity of ledger assets (Exhibit 4, Column 2)			2,371.25
14.	By adjustment in book value of ledger assets (Exhibit 4, Column 1)			
15.	TOTAL INCREASES IN LEDGER ASSETS			14,115,337.14
DECREASES IN LEDGER ASSETS				
16.	Policy and contract claims:			
16.1	Life (see Exhibit 11, Part 2)	640,588.46		
16.2	Accident and health	3,995,073.02		
17.	For annuities with life contingencies, excluding payments on supplementary contracts (including cash refund payments)	337.44		
18.	Premium notes and liens voided by lapse, less $ ..... restorations			
19.	Surrender values	53,886.95		
19A.	Group conversions			
19B.	Interest on policy or contract funds	16,660.44		
20.	Dividends to policyholders:			
20.1	Life insurance and annuities (Exhibit 7)	320,755.61		
20.2	Accident and health (Exhibit 7)			
21.	TOTAL PAID POLICYHOLDERS			5,026,681.92
22.	Paid for claims on supplementary contracts:			
22.1	With life contingencies			
22.2	Without life contingencies			
23.	Dividends and interest thereon held on deposit disbursed during the year			88,341.36
24.				
25.				
26.	Commissions to agents (less commissions on reinsurance):			
26.1	Life insurance and annuities (including $ ..... commuted commissions)	1,268,877.67		
26.2	Accident and health (including $ ..... commuted commissions)	1,760,011.66		
26.3	Policy, membership and other fees retained by agents			3,028,889.33
27.	General expenses (Exhibit 5, Line 10):			
27.1	Life insurance and annuities	772,796.27		
27.2	Accident and health	1,232,093.50		
27.3	Investment	32,465.26		2,037,355.03
28.	Taxes, licenses and fees (Exhibit 6, Line 7):			
28.1	Life insurance and annuities	84,136.72		
28.2	Accident and health	196,676.30		
28.3	Investment	7,952.19		288,743.21
29.	Decrease of paid-up capital during the year			
30.	Paid stockholders for dividends (cash $ 112,500.00, stock $ .....)			112,500.00
31.	Borrowed money repaid gross $ ..... less amount borrowed $			
32.	Interest on borrowed money			
33.	Decrease in Advance-premium Deposit Fund			3,966.18
34.	Acquisition Expense of Business Acquired			1,736,565.11
35.				
36.	From sale or maturity of ledger assets (Exhibit 4, Column 4)			1,250.00
37.	By adjustment in book value of ledger assets (Exhibit 4, Column 3 and Exhibit 2, Line 4)			6,000.00
38.	TOTAL DECREASES IN LEDGER ASSETS			12,327,912.14
RECONCILIATION BETWEEN YEARS				
39.	Amount of ledger assets December 31st of previous year			6,655,068.37
40.	Increase (+) or decrease (—) in ledger assets during the year (Line 15 minus Line 38)			1,787,425.00
41.	TOTAL LEDGER ASSETS DECEMBER 31ST OF CURRENT YEAR			8,262,673.37

EXHIBIT 13 - ASSETS

		Ledger Assets (1)	Non-Ledger Assets (2)	Assets Not Admitted (3)	Net Admitted Assets (4)
1.	Bonds	911,764.47	6,257.54		918,022.01
2.	Stocks	814,215.33	103,370.90		917,586.23
3.	Mortgage loans on real estate:				
3.1	First liens	3,797,644.43			3,797,644.43
3.2	Other than first liens				
4.	Real estate (less $ NONE encumbrances):				
4.1	Properties occupied by the company	579,834.93			579,834.93
4.2	Properties acquired in satisfaction of debt				
4.3	Investment real estate	341,998.28			341,998.28
5.	Policy loans	121,103.56			121,103.56
6.	Premium notes (including $ ..... for first year premiums)				
7.	Collateral loans				
8.	Cash and bank deposits:				
8.1	Cash in company's office	2,413.10			2,413.10
8.2	Deposits in banks and trust companies (Schedule E)	1,459,748.20			1,459,748.20
9.	Credit Deposit - Airlines	425.00			425.00
10.	Deposits with Other Insurance Companies	5,000.00	55,821.34		60,821.34
11.	Amounts recoverable from reinsurers				
12.	Other assets (give items and amounts):				
12.1	Agents' balances (debt $ 170,963.06 credit $ 19,795.33)	151,149.71		151,149.71	-0-
12.2	Bills receivable				-0-
12.3	Furniture and equipment				-0-
12.4	Cash advanced to or in hands of officers or agents	1,200.00		1,200.00	-0-
12.5	Loans on personal security, endorsed or not				-0-
12.6	Company Owned Automobiles	55,976.34		55,976.34	-0-
13.					
14.					
15.					
16.					
17.	Life insurance premiums and annuity considerations deferred and uncollected on in force Dec. 31st of current year (less reinsurance premiums):				
17.1	Industrial uncollected (excluding $ ..... loading) NONE				
17.2	Ordinary deferred and uncollected—New business (excluding $ 168,360.17 loading) 64,465.78				
17.3	Ordinary deferred and uncollected—Renewal (excluding $ 103,680.90 loading) 388,577.66				
17.4	Group life deferred and uncollected (excluding $ 35,643.97 loading) 73,622.09				
17.5	Group annuity uncollected (excluding $ ..... loading) NONE				
17.6	TOTAL (to Col. 2)		326,665.49		326,665.49
18.	Accident and health premiums due and unpaid		266,322.98		266,322.98
19.	Interest and real estate income due and accrued:				
19.1	Interest due and accrued		30,971.39		30,971.39
19.2	Real estate income due and accrued				
19.3					
20.	Net adjustment in assets and liabilities due to foreign exchange rates				
21.	CASH VALUE OF LIFE INSURANCE ON COMPANY OFFICER		34,862.34		34,862.34
22.					
23.					
24.					
25.					
26.	TOTALS	8,342,473.37	1,006,272.58	208,326.05	9,033,619.90

EXHIBIT 14—ANALYSIS OF NON-ADMITTED ASSETS AND RELATED ITEMS
(Excluding Investment Adjustments Not Listed)

		End of Previous Year (1)	End of Current Year (2)	Change for Year Increase (+) or Decrease (—) (3)
27.	Company's stock owned			X X X X X
28.	Loans on company's stock			
29.	Supplies, stationery, printed matter			
30.	Furniture and equipment			X X X X X
31.	Commuted commissions			(-) 67,307.67
32.	Agents' balances (net)	83,842.24	151,149.71	-0-
33.	Cash advanced to or in the hands of officers or agents	1,200.00	1,200.00	
34.	Loans on personal security endorsed or not			
35.	Bills receivable			X X X X X
36.	Premium notes, etc., in excess of net value and other policy liabilities on individual policies			
37.	Accident and health premiums due and unpaid, effective prior to October 1			
38.	Other assets not admitted (itemize)			
38.1	Automobiles	44,695.91	55,976.34	(-) 11,280.43
38.2				
38.3		32,865.31	19,795.33	(-) 13,069.98
39.	Agents' credit balances (Page 3, Item 19 inside)	X X X X X	X X X X X	(-) 63,317.93
40.	TOTAL CHANGE (Col. 3)*			

*(Carry to Item 40, page 4 if (+), or to Item 47, page 4 if (—))

ANNUAL STATEMENT

OF THE

Standard Life and Accident Insurance Co.

of

OKLAHOMA CITY

in the

STATE OF OKLAHOMA

TO THE

Insurance Department

OF THE

STATE OF

_____

FOR THE YEAR ENDED
DECEMBER 31, 1959

LIFE AND ACCIDENT AND HEALTH, 1959

1959

DIT ID 4132-71 F

[EXHIBIT F]

ANNUAL STATEMENT

For the Year Ended December 31, 1959

OF THE CONDITION AND AFFAIRS OF THE

Standard Life

AND ACCIDENT INSURANCE COMPANY

OKLAHOMA CITY, OKLAHOMA

Organized under the Laws of the State of OKLAHOMA, made to the

INSURANCE DEPARTMENT OF THE STATE OF

PURSUANT TO THE LAWS THEREOF

Incorporated DECEMBER 28, 1948 Commenced Business DECEMBER 28, 1948

Home Office 421 N. W. 13th Street (Street and Number), OKLAHOMA CITY 1, OKLAHOMA (City or Town, Zone Number and State)

Mail Address 421 N. W. 13th Street (Street and Number) OKLAHOMA CITY 1, OKLAHOMA (City or Town, Zone Number and State)

OFFICERS

President Leonard H. Savage

Secretary Jack D. Oliver

Treasurer Leonard H. Savage

Vice-Presidents J. I. Gibson; F. M. Petree

Actuary George U. Thomas
CONSULTING ACTUARY C. T. Kenneth

DIRECTORS OR TRUSTEES

Byron V. Boone	F. M. Petree	
J. I. Gibson	Leonard H. Savage	
Ralph C. Heard	Royce H. Savage	
J. V. Healey		
Jack D. Oliver		

State of Oklahoma
County of Oklahoma } ss

Leonard H. Savage, President, Jack D. Oliver, Secretary, George U. Thomas, Actuary,

Leonard H. Savage, Treasurer* of the STANDARD LIFE AND ACCIDENT INSURANCE COMPANY, being duly sworn, each for himself deposes and says that they are the above described officers of the said insurer, and that on the thirty-first day of December last, all of the herein described assets were the absolute property of the said insurer free and clear from any liens or claims thereon, except as herein stated, and that this annual statement, together with related exhibits, schedules and explanations therein contained, annexed or referred to, is a full and true statement of all the assets and liabilities and of the condition and affairs of the said insurer as of the thirty-first day of December last, and of its income and deductions therefrom for the year ended on that date, according to the best of their information, knowledge and belief, respectively.

Subscribed and sworn to before me this
____ day of ____, 1960

President.
Secretary.
Actuary.
Treasurer*.

*Or corresponding persons having charge of the accounts and finances of the insurer.

Note: The pages blanketed by the symbols [illegible] annual statement were reproduced by the John S. Swift Company from manuscript forms copyrighted 1959 by the John S. Swift Company, Incorporated.

ASSETS

		DOLLARS CENTS
1.	Bonds (Schedule D)	770,563.10
2.	Stocks (Schedule D)	2,408,670.83
3.	Mortgage loans on real estate (Schedule B)	4,934,278.55
4.	Real estate (Schedule A)	
4.1	Properties occupied by the Company (less $ None encumbrances)	$ 507,699.00
4.2	Properties acquired in satisfaction of debt (less $ encumbrances)	
4.3	Investment real estate (less $ 95,000.00 encumbrances)	358,397.40 866,096.40
5.	Policy loans	176,383.59
6.	Premium notes	
7.	Collateral loans (Schedule C)	
8.	Cash and bank deposits (Exhibit 13)	1,563,021.31
9.		
10.		
10A.	Cash and invested assets $ 10,703,013.78 (Items 1 to 10)	
11.	Amounts recoverable from reinsurers (Schedule S)	
12.	Deposits with other companies	42,382.32
13.		
14.		
15.		
16.		
✓ 17.	Life insurance premiums and annuity considerations deferred and uncollected	306,070.72
18.	Accident and health premiums due and unpaid effective after September 30th of current year	253,317.55
19.	Interest and other investment income due and accrued	51,336.54
20.	Net adjustment in assets and liabilities due to foreign exchange rates	
21.	Cash value of insurance policies owned	20,082.00
22.		
23.		
24.		
25.		
26.	TOTAL	11,776,308.13

NOTE: The items on this page to agree with Exhibit 13, Col. 4.
State basis of valuation:

N. A. I. C. Valuation of Securities

LIABILITIES, SURPLUS AND OTHER FUNDS

		DOLLARS CENTS
1.	Aggregate reserve for life policies and contracts (Exhibit 8)	6,278,564.00
2.	Aggregate reserve for accident and health policies (Exhibit 9, Part 1)	1,808,408.66
3.	Supplementary contracts without life contingencies (Exhibit 10, Col. 5)	25,653.25
4.	Policy and contract claims	
4.1	Life (Exhibit 11, Part 1)	38,926.00
4.2	Accident and Health (Exhibit 9, Part 2)	855,410.00
5.	Policyholders' dividend accumulations (Exhibit 10, Col. 6)	651,015.00
6.	Policyholders' dividends due and unpaid	
7.	Provision for policyholders' dividends payable in following calendar year—estimated amounts:	
7.1	Apportioned for payment to December 31, 19 60	$ 77,750.00
7.2	Not yet apportioned	77,750.00
8.	Amount provisionally held for deferred dividend policies not included in Item 7	
9.	Premiums and annuity considerations received in advance less $ none discount;	
	including $ none accident and health premiums	18,210.31
10.	Liability for premium deposit funds	174,544.40
11.	Policy and contract liabilities not included elsewhere:	
11.1	Surrender values on cancelled policies	
11.2		
11.3		
12.		
13.	Commissions to agents due or accrued - Life and Annuity $ Accident and Health $ 31,736.50	21,736.50
14.	General expenses due or accrued (Exhibit 5, Line 11)	38,263.34
15.	Taxes, licenses and fees due or accrued (including $ 100,000.00 U. S. federal income tax) (Exhibit 6, Line 8)	417,068.76
✓ 16.	"Cost of collection" on premiums and annuity considerations deferred and uncollected in excess of total loading thereon	
17.	Unearned investment income (Exhibit 3, Col. 2)	3,007.78
18.	Amounts withheld or retained by company as agent or trustee	42,639.28
19.	Amounts held for agents' account (including $ 33,165.33 agents' credit balances)	33,165.33
20.	Remittances and items not allocated	35,901.43
21.	Net adjustments in assets and liabilities due to foreign exchange rates	
22.	Liability for benefits for employees and agents if not included above	
23.	Borrowed money $ and interest thereon $	
24.	Dividends to stockholders declared and unpaid	
25.	Miscellaneous liabilities (give items and amounts)	
25.1	Mandatory securities valuation reserve	116,211.62
25.2	Amount payable under purchase contract for real estate	34,146.63
25.3		
25.4		
25.5		
25.6		
25.7		
25.8		
25.9		
26.	TOTAL LIABILITIES (Except Capital)	10,660,626.54
27.	Special surplus funds:	
27.1	$	
27.2		
27.3	$	
28.	Capital paid-up 300,000.00	
29.	Unassigned surplus 815,683.58	
30.	Total of Items 27 to 29	1,115,683.58
31.	TOTAL	11,776,308.13

29. Includes $190,000.00 contributed surplus.

SUMMARY OF OPERATIONS
(ACCRUAL BASIS)

		DOLLARS CENTS
1.	Premiums and annuity considerations (Exhibit 1, Part 1)	
1.1	Life	5,423,552.21
1.2	Accident and health	9,653,963.26
2.	Considerations for supplementary contracts with life contingencies	
3.	Considerations for supplementary contracts without life contingencies and dividend accumulations	889,282.69
4.	Net investment income (Exhibit 2)	339,469.14
5.	Miscellaneous income	5,219.26
6.		
7.	TOTAL	16,311,486.56
	DEDUCT:	
8.	Death benefits	715,667.55
9.	Matured endowments	
10.	Annuity benefits	337.44
11.	Disability benefits	1,270.48
12.	Surrender benefits	82,284.99
12A.	Group conversions	
13.	Benefits under accident and health policies	4,624,055.38
14.	Interest on policy or contract funds	10,581.48
15.	Payments on supplementary contracts with life contingencies	
16.	Payment on supplementary contracts without life contingencies and of dividend accumulations	128,971.53
17.	Increase in aggregate reserve for policies and contracts with life contingencies	1,063,276.37
18.	Increase in reserve for supplementary contracts without life contingencies and for dividend accumulations	254,350.25
19.	Decrease in aggregate reserve for accident and health policies	-93,138.39
20.	Subtotal (Items 8 to 19)	7,363,657.08
21.	Commissions on premiums and annuity considerations	3,367,610.34
22.	Interest on notes payable	504.63
23.	General insurance expenses (Exhibit 5, Cols. 1 and 2, Line 13)	1,966,816.31
24.	Insurance taxes, licenses and fees (Exhibit 6, Cols. 1 and 2, Line 10)	362,345.31
25.	Increase in loading on and cost of collection in excess of loading on deferred and uncollected premiums	301,231.69
26.	Acquisition expense of business acquired	1,732,910.57
26A.	Amounts due from other companies	39,044.71
27.	Total (Items 20 to 26A)	15,196,140.64
28.	Net gain from operations before dividends to policyholders and excluding capital gains and losses (Item 7, minus Item 27)	1,115,345.92
29.	Dividends to life policyholders (Exhibit 7)	455,121.21
30.	Dividends on accident and health policies (Exhibit 7)	
31.	Increase in amount provisionally held for deferred dividend policies	
32.	TOTAL (Items 29 to 31)	455,121.21
33.	NET GAIN FROM OPERATIONS AFTER DIVIDENDS TO POLICYHOLDERS AND EXCLUDING CAPITAL GAINS AND LOSSES (Item 28 minus Item 32)	660,224.71

SURPLUS ACCOUNT

		DOLLARS CENTS			DOLLARS CENTS
34.	Special surplus funds December 31, previous year		43.	Dividends to stockholders Cash / Stock	99,997.20 / 150,000.00
35.	Unassigned surplus December 31, previous year	403,138.32	44.	Premium on redemption of stock	454,000.00
36.			45.	Net capital losses (Exhibit 4, Col. 6)	
37.	Net gain (from Item 33)	660,224.71	46.	Increase in reserve on account of change in valuation basis	
38.	Net capital gains (Exhibit 4, Col. 6)	239,230.14	47.	Net loss from non-admitted and related items (Exhibit 14, Col. 3, Line 40)	167,732.87
39.	Surplus paid in	150,000.00	48.	Increase in mandatory securities valuation reserve	25,199.72
40.	Net gain from non-admitted and related items (Exhibit 14, Col. 3, Line 40)		49.	Special surplus funds December 31, current year (Item 27, page 3)	
41.	Decrease in mandatory securities valuation reserve		50.	Unassigned surplus December 31, current year (Item 29, page 3)	615,683.38
42.	TOTAL	1,512,613.37	51.	TOTAL	1,512,613.37

Form 1

ANNUAL STATEMENT FOR THE YEAR 1959 OF THE STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

ANALYSIS OF OPERATIONS BY LINES OF BUSINESS

(Gain and Loss Exhibit)

		Total (1)	Industrial Life (Including Total and Permanent Disability and Accidental Death Benefits) (2)	Ordinary: Life Insurance (3)	Ordinary: Total and Permanent Disability (4)	Ordinary: Additional Accidental Death (5)	Ordinary: Individual Annuities (6)	Ordinary: Supplementary Contracts (7)	Group: Life Insurance (8)	Group: Annuities (9)	Accident and Health: Group (10)	Accident and Health: Individual (11)
1.	Premiums and annuity considerations (Exhibit 1, Part 1)	15,077,513.47		3,902,142.91	40,195.97	31,699.74		X X X	1,449,513.59		2,339,504.32	7,314,456.94
2.	Considerations for supplementary contracts with life contingencies			X X X	X X X	X X X	X X X				X X X	X X X
3.	Considerations for supplementary contracts without life contingencies and dividend accumulations	889,282.69		864,282.69				25,000.00				
4.	Net investment income (Exhibit 2)	339,469.14		256,312.78	2,162.42	1,704.14		1,344.30	77,945.30			
5.	Miscellaneous income	5,219.26		5,219.26								
6.												
7.	TOTAL	16,311,486.56		5,027,957.64	42,358.39	33,403.88		26,344.30	1,527,459.09		2,339,504.32	7,314,456.94
8.	Death benefits	715,667.55		220,886.00	X X X	5,000.00	X X X		489,781.55	X X X	X X X	X X X
9.	Matured endowments				X X X	X X X	X X X			X X X	X X X	X X X
10.	Annuity benefits	337.44		X X X	X X X	X X X	337.44		X X X		X X X	X X X
11.	Disability benefits	1,270.48		X X X	1,270.48	X X X					X X X	X X X
12.	Surrender benefits	82,284.99		82,284.99	X X X	X X X	X X X			X X X	X X X	X X X
12A.	Group conversions					X X X	X X X			X X X		
12B.	Transfers on account of group package policies and contracts	X X X	X X X	X X X	X X X	X X X	X X X	X X X				X X X
13.	Benefits under accident and health policies	4,624,055.38	X X X	X X X	X X X	X X X	X X X	X X X	X X X	X X X	1,773,993.87	2,850,059.51
14.	Interest on policy or contract funds	10,581.48		10,581.48								
15.	Payments on supplementary contracts with life contingencies			X X X	X X X	X X X	X X X				X X X	X X X
16.	Payments on supplementary contracts without life contingencies and of dividend accumulations	128,971.53		128,971.53								
17.	Increase in aggregate reserve for policies and contracts with life contingencies	1,843,276.37		1,814,286.17	3,777.87	3,770.33	-138.00		19,380.00			
18.	Increase in reserves for supplementary contracts without life contingencies and for dividend accumulations	254,350.25		228,697.00				25,653.25				
19.	Increase in Reserves for Accident & Health policies	-93,138.39									101,270.81	-196,409.20
20.	SUBTOTAL (Items 8 to 19)	7,565,657.08		2,197,404.70	7,048.35	8,770.33	199.44	25,653.25	509,161.55		1,875,264.68	2,653,650.31
21.	Commissions on premiums and annuity considerations	3,267,610.34		941,170.74	9,705.86	7,846.55			515,678.14		392,505.95	1,380,703.10
22.	Interest on notes payable	504.63		150.40	1.27	1.00		.79	45.81		73.94	231.42
23.	General insurance expenses (Exhibit 3, Cols. 1 and 2, Line 13)	1,966,816.31		601,145.78	5,071.65	4,148.08		3,152.86	182,810.29		283,177.60	887,310.05
24.	Taxes, licenses and fees (Exhibit 6, Cols. 1 and 2, Line 10)	342,345.31		161,798.66	1,365.04	1,116.46		848.59	49,203.47		30,976.20	97,036.89
25.	Increase in loading on and cost of collection in excess of loading on deferred and uncollected premiums	301,251.69		293,393.34	-515.63	-731.03			7,105.01			
26.	Acquisition expense of business acquired	1,732,910.57										1,732,910.57
26A.	Amount due from other companies	37,044.71		11,636.49	38.39	77.70		61.30	3,546.48		3,720.83	17,963.52
27.	TOTAL (Items 20 to 26)	15,196,140.64		4,497,007.58	27,774.93	21,229.09	199.44	29,716.79	1,267,748.75		2,587,725.20	6,769,767.86
28.	Net gain from operations before dividends to policyholders and excluding capital gains and losses (Item 7 minus Item 27)	1,115,345.92		530,953.06	14,583.46	12,174.79	-199.44	-3,372.49	259,710.34		-248,216.88	544,711.08
29.	Dividends to life policyholders (Exhibit 7)	455,121.21		455,121.21							X X X	X X X
30.	Dividends on accident and health policies (Exhibit 7)		X X X	X X X	X X X	X X X	X X X	X X X	X X X	X X X		
31.	Increase in amounts provisionally held for deferred dividend policies										X X X	X X X
32.	TOTAL Items 29 to 31	455,121.21		455,121.21								
33.	Net gain from operations after dividends to policyholders and excluding capital gains and losses (Item 28 minus Item 32)	660,224.71		75,833.85	14,583.46	12,174.79	-199.44	-3,372.49	259,710.34		-248,216.88	544,711.08

Form 1

ANNUAL STATEMENT FOR THE YEAR 1959 OF THE STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

(Full or Exact Name)

ANALYSIS OF INCREASE IN RESERVES DURING THE YEAR

(Gain and Loss Exhibit)

	TOTAL (1)	INDUSTRIAL LIFE (Including Total and Permanent Disability and Accidental Death Benefits) (2)	ORDINARY					GROUP	
			Life Insurance (3)	Total and Permanent Disability (4)	Accidental Death Benefits (5)	Individual Annuities (6)	Supplementary Contracts (7)	Life Insurance (8)	Annuities (9)
1. Reserve Dec. 31 of previous year	4,857,407.63		4,476,540.83	19,739.13	9,359.67	4,713.00		347,255.00	
2. Tabular net premiums or considerations	2,992,115.96		2,230,314.04	19,294.07	17,751.85			724,756.00	
3. Considerations for supplementary contracts without life contingencies and dividend accumulations	889,282.69		864,282.69				25,000.00		
4. Present value of disability claims incurred	3,295.00		X X X	3,295.00	X X X		X X X		
5. Tabular interest	146,472.06		122,404.19	968.25	604.00	143.48	770.14	21,582.00	
6. Tabular less actual reserve released	-23.43	X X X	X X X		X X X	33.98	-79.41		
7. Increase in reserve on account of change in valuation basis	-0-								
8. Other increases (net)									
9. TOTALS (Items 1 to 8)	8,888,749.91		7,693,541.75	43,296.45	27,715.52	4,913.46	25,690.73	1,093,593.00	
10. Tabular cost	1,394,874.93		837,022.44	16,308.97	14,585.52		X X X	726,758.00	
11. Reserves released by death	38,814.36		38,814.36	X X X	X X X	X X X	X X X		X X X
12. Reserves released by other terminations (net)	179,208.49		179,208.49						
13. Annuity, supplementary contract, disability and accumulated dividend payments	130,616.95		128,971.53	1,170.48		337.44	37.50		
14. TOTAL DEDUCTIONS (Items 10 to 13)	1,933,513.66		1,174,017.75	17,779.45	14,585.52	337.44	37.50	726,758.00	
15. Reserve Dec. 31 of current year	6,955,236.25		6,519,524.00	25,517.00	13,130.00	4,575.00	25,653.23	366,835.00	

Form 1

ANNUAL STATEMENT FOR THE YEAR 1959 OF THE STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

(Write in Name)

EXHIBIT 1

		TOTAL (1)	INDUSTRIAL LIFE (Including Total and Permanent Disability and Additional Death Benefits) (2)	ORDINARY: Life Insurance (3)	ORDINARY: Total and Permanent Disability (4)	ORDINARY: Accidental Death and Additional Death (5)	ORDINARY: Individual Annuities (6)	GROUP: Life Insurance (7)	GROUP: Annuities (8)	ACCIDENT AND HEALTH: Group (9)	ACCIDENT AND HEALTH: Individual (10)	
	PART 1—Premiums and Annuity Considerations (Gross, Less Reinsurance)											
	FIRST YEAR (Other Than Single)											
CURRENT YEAR	1. Uncollected	38,706.65		38,199.75	263.82	243.08						1.
	2. Deferred	276,711.93		274,511.14	2,340.98	1,859.81						2.
	3. Line 1 + Line 2	315,418.58		312,710.89	2,604.80	2,102.89						3.
	4. Advance											4.
	5. Line 3 — Line 4	315,418.58		312,710.89	2,604.80	2,102.89						5.
	6. Collected during year	1,189,357.92		1,168,176.51	11,717.72	9,463.69						6.
	7. Line 5 + Line 6	1,504,776.50		1,480,887.40	14,322.52	11,566.58						7.
	8. Previous year (uncollected + deferred — advance)	232,605.93		229,262.47	1,889.40	1,674.06						8.
	9. First year premiums and considerations Line 7 — Line 8	1,273,970.57		1,251,644.93	12,433.12	9,892.52			INCLUDED IN RENEWAL			9.
	SINGLE											
	10. Single premiums and considerations	1,195,815.81						876,773.53		319,042.28		10.
	RENEWAL											
CURRENT YEAR	11. Uncollected	461,078.50		110,885.96	813.91	479.69		95,581.59		110,896.46	149,491.09	11.
	12. Deferred	789,807.92		780,670.32	5,781.15	3,356.45						12.
	13. Line 11 + Line 12	1,250,886.42		891,556.28	6,595.06	3,835.94		95,581.59		110,896.46	142,421.09	13.
	14. Advance	18,210.37		16,175.76	160.53	118.31		1,775.77				14.
	15. Line 13 — Line 14	1,232,676.05		875,380.52	6,434.53	3,717.63		93,805.82		110,896.46	142,421.09	15.
	16. Collected during year	12,776,671.68		2,242,382.50	27,137.24	22,052.28		586,923.25		2,003,710.94	7,366,213.47	16.
	17. Line 15 + Line 16	13,459,167.73		3,117,763.02	33,591.77	25,769.91		680,729.07		2,114,607.40	7,466,636.56	17.
	18. Previous year (uncollected + deferred — advance)	851,418.64		467,265.36	5,828.92	3,962.69		108,036.01		96,145.36	172,177.52	18.
	19. Renewal premiums and considerations Line 17 — Line 18	12,607,729.09		2,650,497.98	27,762.85	21,807.22		572,740.06		2,020,462.04	7,314,458.94	19.
	TOTAL											
	20. Total premiums and annuity considerations Lines 9, 10 and 19 (to agree with Item 1, Page 4)	15,077,515.47		3,902,142.91	40,195.97	31,699.74		1,449,513.59		2,339,504.32	7,314,458.94	20.
	PART 2—Dividends Applied, Reinsurance Ceded and Commissions Incurred											
	DIVIDENDS APPLIED (Included in Part 1)											
	21. To pay renewal premiums (Exhibit 7, Line 1)	147,189.12		147,189.12								21.
	22. All other (Exhibit 7, Lines 2, 3 and 4)	975.45		975.45								22.
	REINSURANCE CEDED (Deducted in Part 1)											
	23. First year (other than single)	-1,663.92		-1,663.39	-153.68	153.15						23.
	24. Single											24.
	25. Renewal	47,344.36		36,643.47	3,162.77	3,886.99		5,388.53		-530.19	19,093.27	25.
	COMMISSIONS INCURRED											
	26. First year (other than single)	827,876.52		813,133.78	8,136.35	6,587.59						26.
	27. Single	672,656.94						498,974.76		173,682.18		27.
	28. Renewal	1,767,076.88		129,037.96	1,569.51	1,259.16		16,701.38		218,825.27	1,380,703.10	28.
	29. Total (to agree with Item 21, Page 5)	3,267,610.34		941,170.74	9,705.86	7,846.75		515,676.14		392,507.45	1,380,703.10	29.

EXHIBIT 2—NET INVESTMENT INCOME
(Accrual Basis)

	DOLLARS	CENTS
1. Total interest, dividends and real estate income (Exhibit 3, Col. 7, Line 10)	405,796.65	
2. Investment expenses (Exhibit 5, Col. 3, Line 13)	37,910.75	
3. Taxes, licenses and fees (Exhibit 6, Col. 3, Line 10)	5,937.76	
4. Depreciation on real estate	27,477.00	
5.		
6. TOTAL (Lines 2 to 5 inclusive)	66,325.51	
7. NET INVESTMENT INCOME — Line 1 less Line 6 (to Item 4, Page 4)	339,469.14	
8. Ratio of net investment income to mean assets (see instructions)	3.65	%
9. Ratio of net investment income to mean assets before federal income tax, if any, included in line 3	3.65	%

EXHIBIT 3—INTEREST, DIVIDENDS AND REAL ESTATE INCOME

	Collected During Year (1)	Current Year: Unearned (2)	Current Year: Due (3)	Current Year: Accrued (4)	Current Year: Non-Admitted (5)	Previous Year (1)+(4)−(2)−(3) (6)	Earned During Year (1)−(2)+(3) +(4)−(5)−(6) (7)
1. Interest on bonds	48,571.76			15,130.50	83.33	13,134.13	50,486.80
2. Dividends on stocks	32,291.37						32,291.37
3. Interest on mortgage loans	201,057.71		1,981.60	34,322.52		17,837.26	219,524.57
4. Real estate income	100,642.33						100,642.33
5. Interest on premium notes, policy loans and liens	9,507.16	3,007.78		185.25		−1,625.18	8,309.81
6. Interest on collateral loans							
7. Interest on bank deposits							
8. Miscellaneous	4,541.67						4,541.67
9.							
10. TOTALS	388,612.10	3,007.78	1,981.60	49,638.27	83.33	29,346.21	405,796.65

*Includes $ 820.38 accrual of discount less $ 95.66 amortization of premium and less $ 142.71 paid for accrued interest on purchases.
†Includes $ None paid for accrued dividends on purchases.
**Includes $ 17,378.02 accrual of discount less $ None amortization of premium and less $ 1,343.63 paid for accrued interest on purchases.
***Includes $ 78,000.00 for company's occupancy of its own buildings; and excludes $ None interest on encumbrances.

†State bases of exclusions:
Bonds: Excluded accrued interest not amortizable & valued at market
Stocks
Collateral loans
Mortgage loans
Real estate
Bank deposits

*EXHIBIT 4—CAPITAL GAINS AND LOSSES ON INVESTMENTS

	Increase in Book Value (1)	Profit on Sale or Maturity (2)	Decrease in Book Value (3)	Loss on Sale or Maturity (4)	Net Gain (+) or Loss (−) From Change in Difference Between Book and Admitted Value (5)	Net Gains (+) or Losses (−) (1)+(2)−(3) −(4)+(5) (6)
1. Bonds				55.00	−5,070.04	−5,125.04
2. Stocks		190,280.00		1,870.00	+52,869.39	241,279.39
3. Mortgage loans						
4. Real estate	23,075.39					23,075.39
5. Premium notes, policy loans and liens						
6. Collateral loans						
7. Cash and bank deposits						
8. Foreign exchange						
9.						
10. TOTALS	23,075.59	190,280.00		1,925.00	47,799.35	259,230.14

Distributions on Line 10 $ (5). (Attach statement or memorandum explaining basis of division).
11. Net realized capital gains (+) or losses (−) on assets disposed of during the year $ 211,430.39, less $ 190,280.00 reflected in previous years' statements 21,150.39
12. Net unrealized capital gains (+) or losses (−) of the year (+) 47,799.35

*Only amounts due to accumulations to be reported on Exhibit 3.
**Including $ 21,477.00 depreciation on real estate included on Exhibit 2, Line 4.

EXHIBIT 5 GENERAL EXPENSES

		Insurance: Life (a)	Insurance: Accident and Health (b)	Investment (c)	Total (d)	
1.	Rent	185,313.17	51,605.77	3,569.69	138,707.63	
2.	Salaries and wages	305,884.55	486,310.00	17,700.00	710,094.55	
3.11	*Contributions for benefit plans for employees					
3.12	*Contributions for benefit plans for agents					
3.21	Payments to employees under non-funded benefit programs					
3.22	Payments to agents under non-funded benefit programs					
3.31	Other employee welfare	6,355.96	15,491.78	563.31	22,411.45	
3.32	Other agent welfare					
3.4						
4.1	Legal fees and expenses	832.37	1,341.54	56.09	2,230.00	
4.2	Medical examination fees	18,410.74	81.84	-	18,492.38	
4.3	Inspection report fees	28,736.68	4,501.72	-	33,366.40	
4.4	Fees of public accountants and consulting actuaries	3,600.00	600.00	-	4,200.00	
4.5	Expense of investigation and settlement of policy claims	2.00	77,775.36	-	77,777.36	
4.6						
5.1	Traveling expenses	150,005.33	270,779.67	-	420,785.20	
5.2	Advertising	11,113.62	19,757.54	-	30,871.16	
5.3	Postage, express, telegraph and telephone	18,371.84	32,661.04	-	51,032.88	
5.4	Printing and stationery	60,749.68	107,999.42		168,749.10	
5.5	Cost or depreciation of furniture and equipment	-14,093.34	-33,300.04	-1,211.70	-48,606.00	
5.6	Rental of equipment	30,997.65	37,339.16	-	68,336.81	
5.7	Federal employees group expenses	6,332.17	-	-	6,332.17	
6.1	Books and periodicals	3,899.23	13,939.96	307.34	18,346.45	
6.2	Bureau and association dues	4,782.82	8,486.87	-	13,279.69	
6.3	Insurance, except on real estate	4,014.81	7,137.44	-	11,152.25	
6.4	Miscellaneous losses	355.18	986.98		1,342.16	
6.5	Collection and bank service charges	9,928.40	23,460.89	853.68	34,242.97	
6.6	Sundry general expenses					
6.7	Group service and administration fees					
6.8						
7.1	Agency expense allowance					
7.2	Agents' balances charged off (less $ recovered)	65,017.04	21,672.34	-	86,689.38	
7.3	Agency conferences other than local meetings	48,577.98	5,397.55	-	53,975.53	
8.1	Agents' Bonuses - Life	34,489.98	8,622.50	-	43,112.48	
8.2						
9.1	Real estate expenses	3,830.04	9,097.48	331.04	13,278.76	
9.2	Investment expenses not included elsewhere	-	-	15,141.00	15,141.00	
9.3						
10.	GENERAL EXPENSES PAID	797,568.02	1,172,126.69	37,910.75	2,007,563.46	
11.	General expenses unpaid December 31, current year	18,174.80	18,088.54	-	28,263.34	To Line 25, Page 4
12.	General expenses unpaid December 31, previous year	11,545.42	19,374.32	-	31,119.74	
13.	General expenses incurred during year (10+11—12)	796,177.40	1,170,638.91	37,910.75	2,004,727.06	To Line 2, Page 2

A. Compensation to agents on a plan other than commissions, included in Col. (1): First year $ None, Renewal $ None
B. Agency supervision, except Home Office, included in Col. (1): Line 3 $ None, Line 5.1 $ None, Line 5 $ None
C. Branch office expenses other than those in A and B included in Col. (1): Line 1 $ None, Line 2 $ None, All other lines $ None

*These items include $ on account of prior years.

EXHIBIT 6—TAXES, LICENSES AND FEES

		Insurance: Life (1)	Insurance: Accident and Health (2)	Investment (3)	Total (4)	
1.	Real estate taxes			8,274.32	8,274.32	
2.	State insurance department licenses and fees	3,988.64	7,090.92		11,079.56	
3.	State taxes on premiums	80,295.35	76,122.23		156,417.78	
4.	Other state taxes, incl. $ 5,757.57 Social Security	4,419.89	7,857.58		12,277.47	
5.1	U. S. federal income tax	18,880.39	33,565.13		52,445.52	
5.2	Other U.S. federal taxes, incl. $ 17,756.28 Social Security	6,392.31	11,344.12		17,736.43	
6.	All other taxes					
7.	TAXES, LICENSES AND FEES PAID	131,976.78	135,979.98	8,274.32	266,231.28	
8.	Taxes, licenses and fees unpaid December 31, current year	170,426.21	244,708.27	1,926.28	417,060.76	To Line 24, Page 4
9.	Taxes, licenses and fees unpaid December 31, previous year	78,111.49	257,652.44	6,273.04	335,636.97	
10.	Taxes, licenses and fees incurred during year (7+8—9)	214,291.50	122,035.81	5,937.76	342,193.07	To Line 3, Page 2

NOTE: Canadian and other foreign taxes are included appropriately on Lines 1, 2, 3, 5 and 6.

EXHIBIT 7—DIVIDENDS TO POLICYHOLDERS

		Life	Accident and Health
1.	Applied to pay renewal premiums	147,189.13	
2.	Applied to shorten the endowment or premium-paying period	975.45	
3.	Applied to provide paid-up additions	146,184.57	
4.	Applied to provide paid-up annuities	34,101.96	
5.	TOTAL (Lines 1-4)	328,719.68	
6.	Paid in cash		
7.	Left on deposit with the company		
8.		328,719.71	
9.	TOTAL (Lines 5-8)		
10.	Amount due and unpaid (Item 6, page 3) None	77,750.00	
11.	Provision for annual dividend policies, including $ None terminal dividends (Item 7, page 3, in part)		
12.	Provision for deferred dividend policies (Item 7, page 3, in part)	77,750.00	
13.	TOTAL (Lines 10-12)	61,613.00	
14.	Line 13 of previous year	455,191.71	
15.	TOTAL DIVIDENDS TO POLICYHOLDERS (Lines 9+13—14)	(To Item 29, Page 4)	(To Item 30, Page 4)

EXHIBIT 8—AGGREGATE RESERVE FOR LIFE POLICIES AND CONTRACTS

Valuation Standard (Indicate mortality and interest bases and valuation method by years of issue and in the case of annuities indicate whether immediate, deferred or both) (1)	Total (2)	Industrial (3)	Ordinary (4)	Credit (5)
A. Life Insurance:				
1. Amer. Exp. 3½ (1946-1958) Illinois Std.	3,434,613.00		3,434,613.00	
2. Amer. Exp. 3½ (1949-1957) Net Level Prem.	73,317.00		73,317.00	
3. Comm. Std. Ord. 3½% (1957) CRVM	3,766.00		3,766.00	
4. Comm. Std. Ord. 3½ (1951) CRVM	2,673,320.00		2,305,485.00	366,835.00
5. Comm. Std. Ord. 2½% (1951) CRVM	82,618.00		82,618.00	
6.				
7.				
8.				
9.				
10.				
11.				
12.				
13.				
14.				
15.				
16.				
17.				
18.				
19.				
20.				
21.				
22.				
23. Total (Gross)	6,366,534.00		5,899,699.00	366,835.00
24. Reinsurance	63,234.00		63,234.00	
25. Total (Net)	6,203,300.00		5,836,465.00	366,835.00
B. Annuities (excluding supplementary contracts with life contingencies):				
1. 1937 Std. Ann. (Mod.) 3½	4,575.00	X X X	4,575.00	
2.		X X X		
3.		X X X		
4.		X X X		
5.		X X X		
6.		X X X		
7.		X X X		
8.		X X X		
9.		X X X		
10.		X X X		
11.		X X X		
12.		X X X		
13.		X X X		
14.		X X X		
15.		X X X		
16.		X X X		
17.		X X X		
18.		X X X		
19.		X X X		
20.		X X X		
21.		X X X		
22.		X X X		
23. Total (Gross)	4,575.00	X X X	4,575.00	
24. Reinsurance		X X X		
25. Total (Net)	4,575.00	X X X	4,575.00	
C. Supplementary Contracts With Life Contingencies:				
1.				
2.				
3.				
4.				
5. Total (Gross)				
6. Reinsurance				
7. Total (Net)				
D. Accidental Death Benefits:				
1. 1928-1933 Double Indemnity Table, 3%	17,278.00		17,278.00	
2.				
3.				
4.				
5. Total (Gross)	17,278.00		17,278.00	
6. Reinsurance	4,148.00		4,148.00	
7. Total (Net)	13,130.00		13,130.00	
E. Disability—Active Lives:				
1. 1926 Class (3) Table 3% (150% Mod.)	33,385.00		33,385.00	
2.				
3.				
4.				
5.				
6.				
7. Total (Gross)	33,385.00		33,385.00	
8. Reinsurance	1,163.00		1,163.00	
9. Total (Net)	32,222.00		32,222.00	
F. Disability—Disabled Lives:				
1. 1926 Class (3) Table 3% (150% Mod.)	3,395.00		3,395.00	
2.				
3.				
4.				
5.				
6.				
7. Total (Gross)	3,395.00		3,395.00	
8. Reinsurance				
9. Total (Net)	3,395.00		3,395.00	

EXHIBIT 8—AGGREGATE RESERVE FOR LIFE POLICIES AND CONTRACTS (Continued)

Valuation Standard (Indicate mortality and interest bases and valuation method by years of issue) (1)	Total (2)	Industrial (3)	Ordinary (4)	Credit (5)
G. Miscellaneous Reserves:				
1. For excess of valuation net premiums over corresponding gross premiums on respective policies, computed according to the standard of valuation required by the state				
2. For non-deduction of deferred fractional premiums or return of premiums at the death of the insured	32,044.00		32,044.00	
3. For surrender values in excess of reserves otherwise required and carried in this schedule				
4.				
5.				
6.				
7. Total (Gross)	32,044.00		32,044.00	
8. Reinsurance	32,044.00		32,044.00	
9. Total (Net)				
H. Grand Total (Net)—Item 1, Page 3	6,278,566.00		5,911,731.00	366,835.00

EXHIBIT 8A—CHANGES IN BASES OF VALUATION DURING THE YEAR
(Including supplementary contracts set up on a basis other than that used to determine benefits)

	Description of Valuation Class	Valuation Bases Changed from	Valuation Bases Changed to	Increase in Actuarial Reserve Due to Change
1.				
2.				
3.				
4.				
5.				
6.				
7.	Total (to agree with Item 7, Page 6)			

GENERAL INTERROGATORIES

1. Has the company ever issued both participating and non-participating policies? Answer: Yes
2. Does the company at present issue both participating and non-participating policies? Answer: Yes
If not, state which kind is issued.
Answer: ....
3. State the amount of insurance, if any, on which the gross premiums are less than the net premiums according to the standard of valuation required by this State.
Answer: $ None
The additional reserve to cover deficiencies in gross premiums must be included in Exhibit 8 if not reported in G. 1. above, state amount: $ Not applicable
4. Does the Company waive deduction of deferred fractional premiums or death or pay of its insureds?
Answer: Yes, on C.S.O. Issues

5. State the amounts of insurance in force under each of the following plans.

	Non-Participating	Participating Annual Div.	Participating Def. Div.
Industrial	None		
Ordinary	$ 31,726,328	114,338,618	165,944,946
	149,600,983		149,600,983
Group	181,327,311	114,338,618	295,545,929
Totals			

6. Is any surrender value promised in excess of the reserve as legally computed? Answer: No ....If so, the amount of such excess must be included in C.1 above. Has this been done? Answer: ....
7. Attach statement of methods employed in the valuation of policies issued at, or subsequently subject to, an extra premium or in the valuation of policies otherwise issued on lives classed as substandard for the plan or contract issued or on special class lives involving paid-up insurance).
8. Has the company any assessment or additional premium policies in force?
Answer: No If so, state
Amount of insurance $ ....
Amount of reserve $ ....
Basis of reserve: ....
Basis of regular assessments: ....
....
Basis of special assessments: ....
....
Assessments collected during year $ ....

EXHIBIT 9—AGGREGATE RESERVE AND POLICY CLAIM LIABILITY FOR ACCIDENT AND HEALTH POLICIES

	Total (1)	Group Accident and Health (2)	Individual Policies: Accident Only (3)	Individual Policies: Accident and Health (4)	Individual Policies: Non-Cancellable Accident and Health (5)	Individual Policies: Hospital and Medical Expense Only (6)
PART 1—Aggregate Reserve						
1. Unearned premium reserve	1,826,373.62	220,082.98	731,255.84	9,741.66	12,363.73	852,931.41
2. Additional reserves for guaranteed renewable policies						
3. Present value of amounts not yet due on claims						
4. Reserve for future contingent benefits (deferred maternity and other similar benefits)						
5.						
6.						
7. Totals (Gross)	1,826,373.62	220,082.98	731,255.84	9,741.66	12,363.73	852,931.41
8. Reinsurance	17,966.96		8,565.79	2,331.28	7,169.89	
9. Totals (Net) (to Item 2, Page 3)	1,808,406.66	220,082.98	742,790.05	7,410.38	5,193.84	852,931.41
PART 2—Policy Claim Liability End of Current Year						
1. Due and unpaid						
2. In course of settlement						
3. Incurred but unreported (less reinsurance)	855,410.00	326,742.17	80,718.92	5,411.65	200.60	442,336.86
4. Totals	855,410.00	326,742.17	80,718.92	5,411.65	200.60	442,336.86
5. Less reinsurance on reported claims (Schedule S)						
6. Net Liability (to Item 4.2, Page 3)	855,410.00	326,742.17	80,718.92	5,411.65	200.60	442,336.86

Include portion of holidays applicable to months "unpaid" payments. Reserve for unearned payments appears on Item 2, Page 3 (see Part 1).

EXHIBIT 10—SUPPLEMENTARY CONTRACTS WITHOUT LIFE CONTINGENCIES AND DIVIDEND ACCUMULATIONS

	Valuation Rate (1)	Contract Rate or Rates (2)	Supplementary Contracts without Life Contingencies: Present Value of Amounts Not Yet Due (3)	Supplementary Contracts without Life Contingencies: Amount Left on Deposit (4)	Supplementary Contracts without Life Contingencies: Totals (5)	Dividend Accumulations (6)
1.	3½	3½				
2.	3	3		35,653.35	35,653.35	651,015.00
3.						
4.						
5.						
6.						
7.						
8. Totals (as per Items 3 and 5, Page 3)				35,653.35	35,653.35	651,015.00

Show contract rate or rates corresponding to each valuation rate.

Form 1

ANNUAL STATEMENT FOR THE YEAR 1959 OF THE STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

EXHIBIT 11—POLICY AND CONTRACT CLAIMS FOR OTHER THAN ACCIDENT AND HEALTH POLICIES

PART 1—Liability End of Current Year

	Total (1)	Industrial Life (Including Total and Permanent Disability and Accidental Death Benefits) (2)	Ordinary (3)	Ordinary: Total and Permanent Disability (4)	Ordinary: Additional Accidental Death (5)	Ordinary: Individual Annuities (6)	Ordinary: Supplementary Contracts (7)	Group: Life Insurance (8)	Group: Annuities (9)
1. Due and unpaid	None								
2. In course of settlement:									
2.1 Resisted				?					
2.2 Other				?					
3. Incurred but unreported (less reinsurance)	38,926.00		18,000.00	?				20,926.00	
4. Total									
5. Less reinsurance on reported claims (Schedule S)									
6. Net Liability (Column 1 to Item 4.1, Page 3)	38,926.00	*	** 18,000.00					20,926.00	

*Including matured endowments unpaid amounting to $ None **Including matured endowments unpaid amounting to $ None
Include only portion of liability applicable to matured "accrued" payments. Reserve for unaccrued payments $ None appears in Item 1, Page 3. (See Exhibit 8, Section 7.)

PART 2—Incurred During the Year

	Total (1)	Industrial Life (Including Total and Permanent Disability and Accidental Death Benefits) (2)*	Ordinary: Life Insurance (3)**	Ordinary: Total and Permanent Disability (4)	Ordinary: Additional Accidental Death (5)	Ordinary: Individual Annuities (6)	Ordinary: Supplementary Contracts (7)	Group: Life Insurance (8)	Group: Annuities (9)
1. Settlements during the year	737,750.07		262,096.00	1,461.08	5,000.00	337.44		468,855.55	
2. Deduct reinsurance	39,480.60		39,210.00	190.60					
3. Net settlements (Line 1 minus Line 2)	† 678,349.47		202,886.00	1,270.48	5,000.00	337.44		468,855.55	
4. Net liability December 31, current year from Part 1	38,926.00		18,000.00					20,926.00	
5. Amounts recoverable from reinsurers December 31, previous year									
6. Line 3 plus Line 4 plus Line 5	717,275.47		220,886.00	1,270.48	5,000.00	337.44		489,781.55	
7. Net liability December 31, previous year									
8. Amounts recoverable from reinsurers December 31, current year (Schedule S)									
9. Line 7 plus Line 8									
10. Net Incurred Claims (Line 6 minus Line 9)	717,275.47		220,886.00	1,270.48	5,000.00	337.44		489,781.55	

*Including matured endowments amounting to $ None in Line 1 and $ None in Line 10. **Including matured endowments amounting to $ None in Line 1 and $ None in Line 10.
†Equals sum of Lines 10.1, 10.2 and 10.3, Exhibit 12. Includes $ 792.13 premiums waived under total and permanent disability benefits.

EXHIBIT 12—RECONCILIATION OF LEDGER ASSETS

			DOLLARS CENTS
INCREASES IN LEDGER ASSETS			
1.	Premiums on life policies and annuity considerations (see Exhibit 1, Part 1)		4,944,676.72
2.	Accident and health cash premiums, including $ 85,726.18 policy, membership and other fees		9,666,968.69
3.	Consideration for supplementary contracts with life contingencies		
4.	Consideration for supplementary contracts without life contingencies including $ None disability and coupons		23,000.00
5.	Dividends left with the Company to accumulate at interest		866,782.69
6.	Interest, dividends and real estate income (Exhibit 3, Column 1)		386,613.10
7.	Increase of paid-up capital during the year		150,000.00
8.	From other sources (give items and amounts):		
8.1	Surplus contributed		190,000.00
8.2			
8.3			
9.	Borrowed money gross $, less amount repaid $		
10.	Encumbrance on real estate		33,462.00
11.	Increase in ledger liabilities		8,011.42
12.			
13.	From sale or maturity of ledger assets (Exhibit 4, Column 2)		190,380.00
14.	By adjustment in book value of ledger assets (Exhibit 4, Column 1)		23,075.39
15.	TOTAL INCREASES IN LEDGER ASSETS		16,487,549.21
DECREASES IN LEDGER ASSETS			
16.	Policy and contract claims:		
16.1	Life (see Exhibit 11, Part 2)	678,017.03	
16.2	Accident and health	4,403,185.12	
17.	For annuities with life contingencies, excluding payments on supplementary contracts (including cash refund payments)	337.44	
18.	Premium notes and liens voided by lapse, less $ restorations		
19.	Surrender values	82,284.99	
19A.	Group conversions		
19B.	Interest on policy or contract funds	10,565.71	
20.	Dividends to policyholders:		
20.1	Life insurance and annuities (Exhibit 7)	436,986.71	
20.2	Accident and health (Exhibit 7)		
21.	TOTAL PAID POLICYHOLDERS		5,613,291.50
22.	Paid for claims on supplementary contracts:		
22.1	With life contingencies		
22.2	Without life contingencies	37.50	37.50
23.	Dividends and interest thereon held on deposit disbursed during the year		128,934.03
24.			
25.			
26.	Commissions to agents (less commissions on reinsurance):		
26.1	Life insurance and annuities (including $ commuted commissions)	1,676,401.29	
26.2	Accident and health (including $ commuted commissions)	1,703,704.15	
26.3	Policy, membership and other fees retained by agents	85,726.18	3,263,829.62
27.	General expenses (Exhibit 5, Line 10)		3,007,583.46
28.	Taxes, licenses and fees (Exhibit 6, Line 7)		266,231.28
29.	Decrease of paid-up capital during the year		30,000.00
30.	Paid stockholders for dividends (cash $ 99,997.20, stock $ 150,000.00)		249,997.20
31.	Borrowed money repaid gross $ less amount borrowed $		
32.	Interest on borrowed money		
33.	Premium paid on redemption of stock		434,000.00
34.	Cost of acquisition of other insurance companies		1,733,910.57
35.	Decrease in ledger liabilities		10,622.22
36.	From sale or maturity of ledger assets (Exhibit 4, Column 4)		1,925.00
37.	By adjustment in book value of ledger assets (Exhibit 4, Column 3 and Exhibit 2, Line 4)		22,477.00
38.	TOTAL DECREASES IN LEDGER ASSETS		13,791,237.16
	RECONCILIATION BETWEEN YEARS		
39.	Amount of ledger assets December 31st of previous year		8,343,473.37
40.	Increase (+) or decrease (—) in ledger assets during the year (Line 15 minus Line 38)		+ 2,691,312.05
41.	TOTAL LEDGER ASSETS DECEMBER 31ST OF CURRENT YEAR		10,933,785.42

EXHIBIT 13 ASSETS

		Ledger Assets (1)	Non-Ledger Assets (2)	Assets Not Admitted (3)	Net Admitted Assets (4)
1.	Bonds	769,377.80	1,187.50		770,565.10
2.	Stocks	2,252,430.34	156,240.49		2,408,670.83
3.	Mortgage loans on real estate:				
3.1	First liens	4,936,278.55			4,936,278.55
3.2	Other than first liens				
4.	Real estate (less $ 95,000.00 encumbrances):				
4.1	Properties occupied by the company	507,499.00			507,499.00
4.2	Properties acquired in satisfaction of debt				
4.3	Investment real estate	358,397.40			358,397.40
5.	Policy loans	176,383.59			176,383.59
6.	Premium notes (including $ for first year premiums)				
7.	Collateral loans				
8.	Cash and bank deposits:				
8.1	Cash in company's office	1,417.68			1,417.68
8.2	Deposits in banks and trust companies (Schedule E)	1,543,603.63			1,543,603.63
9.	Deposits with other companies	25,508.70	16,776.83		42,285.53
10.					
11.	Amounts recoverable from reinsurers				
12.	Other assets (give items and amounts)				
12.1	Agents' balances (debit $ 215,306.39; credit $ 33,165.32)	182,141.07		182,141.07	-0-
12.2	Bills receivable				-0-
12.3	Furniture and equipment	102,687.02		102,687.02	-0-
12.4	Cash advanced to or in hands of officers or agents	1,200.00		1,200.00	-0-
12.5	Loans on personal security, endorsed or not				-0-
12.6					
	Automobiles owned	58,027.30		58,027.30	-0-
	Misc. suspense items	18,633.64		18,633.64	
13.					
14.					
15.					
16.					
17.	Life insurance premiums and annuity considerations deferred and uncollected on in force Dec. 31st of current year (less reinsurance premiums):				
17.1	Industrial uncollected (excluding $ loading)				
17.2	Ordinary deferred and uncollected—New business (excluding $ 212,255.63 loading)	105,163.93			
17.3	Ordinary deferred and uncollected—Renewal (excluding $ 353,912.12 loading)	548,075.16			
17.4	Group life deferred and uncollected (excluding $ 42,748.98 loading)	52,832.61			
17.5	Group annuity uncollected (excluding $ loading)				
17.6	TOTAL (to Col. 2)		706,070.72		706,070.72
18.	Accident and health premiums due and unpaid		253,317.53		253,317.53
19.	Interest and real estate income due and accrued:				
19.1	Interest due and accrued		31,536.54		31,536.54
19.2	Real estate income due and accrued				
19.3					
20.	Net adjustment in assets and liabilities due to foreign exchange rates				
21.	Cash value of life insurance on Company officer		30,082.00		30,082.00
22.					
23.					
24.					
25.					
26.	TOTALS	10,933,785.42	1,205,311.63	363,688.93	11,776,308.12

EXHIBIT 14—ANALYSIS OF NON-ADMITTED ASSETS AND RELATED ITEMS
(Excluding Investment Adjustments Not Listed)

		Ends of Previous Year (1)	Ends of Current Year (2)	Changes for Year Increase (+) or Decrease (-) (3)
27.	Company's stock owned			X X X X X
28.	Loans on company's stock			
29.	Supplies, stationery, printed matter		102,687.02	(-) 102,687.02
30.	Furniture and equipment			X X X X X
31.	Unamortized commissions			X X X X X
32.	Agents' balances (net)	151,169.71	182,141.07	(-) 30,991.36
33.	Cash advanced to or in the hands of officers or agents	1,200.00	1,200.00	-0-
34.	Loans on personal security endorsed or not			
35.	Bills receivable			
36.	Premium notes, etc., in excess of net value and other policy liabilities on individual policies			X X X X X
37.	Accident and health premiums due and unpaid, effective prior to October 1			
38.	Other assets not admitted (itemize)			
38.1	Automobiles owned	55,976.34	58,027.30	(-) 2,050.96
38.2	Misc. suspense items	-0-	18,633.64	(-) 18,633.64
38.3				
39.	Agents' credit balances (Page 3, Item 19 inside)	19,795.33	33,165.32	(-) 13,369.99
40.	TOTAL CHANGES (Col. 3)*	X X X X X	X X X X X	(-)167,732.87

*(Carry to Item 40, page 4 if (+), or to Item 47, page 4 if (—))

ANNUAL STATEMENT

OF THE

Standard Life and Accident Insurance Co.

of

OKLAHOMA CITY

in the

STATE OF OKLAHOMA

TO THE

Insurance Department

OF THE

STATE OF

_____

FOR THE YEAR ENDED
DECEMBER 31, 1961

1961

LIFE AND ACCIDENT AND HEALTH, 1961

1961

DEPT. EXHIBIT NO. 4132-21 EX. H

88

[EXHIBIT H]

ANNUAL STATEMENT

For the Year Ended December 31, 1961

OF THE CONDITION AND AFFAIRS OF THE

Standard Life

AND ACCIDENT INSURANCE COMPANY
OKLAHOMA CITY, OKLAHOMA

Organized under the Laws of the State of OKLAHOMA, made to the

INSURANCE DEPARTMENT OF THE STATE OF

PURSUANT TO THE LAWS THEREOF

Incorporated December 28, 1948 Commenced Business December 28, 1948

Home Office 421 N. W. 13th Street (Street and Number), Oklahoma City, Oklahoma (City or Town, Zone Number and State)

Mail Address 421 N. W. 13th Street (Street and Number), Oklahoma City, Oklahoma (City or Town, Zone Number and State)

OFFICERS

President Leonard H. Savage

Secretary Jack D. Oliver

Treasurer Leonard H. Savage

Vice-Presidents J. I. Gibson

Actuary George W. Thomas

DIRECTORS OR TRUSTEES

Byron V. Boone	F. M. Petree	
J. I. Gibson	Leonard H. Savage	
Ralph C. Beard	Boyce H. Savage	
J. V. Healey		
Jack D. Oliver		

State of Oklahoma
County of Oklahoma } ss

Leonard H. Savage, President, Jack D. Oliver, Secretary, George W. Thomas, Actuary,
Leonard H. Savage, Treasurer* of the STANDARD LIFE AND ACCIDENT INSURANCE COMPANY, being duly sworn, each for himself deposes and says that they are the above described officers of the said insurer, and that on the thirty-first day of December last, all of the herein described assets were the absolute property of the said insurer free and clear from any liens or claims thereon, except as herein stated, and that this annual statement, together with related exhibits, schedules and explanations therein contained, annexed or referred to, is a full and true statement of all the assets and liabilities and of the condition and affairs of the said insurer, as of the thirty-first day of December last, and of its income and deductions therefrom for the year ended on that date, according to the best of their information, knowledge and belief, respectively.

Subscribed and sworn to before me this
_____ day of _____, 1962

_____ Notary Public

My Commission Expires _____

*Or corresponding persons having charge of the accounts and finances of the insurer.

President.
Secretary.
Actuary.
Treasurer*.

Note: The pages identified by the symbol (c) in this annual statement were reproduced by the John S. Swift Company from manual forms copyright 1961 by the John S. Swift Company, Incorporated.

ASSETS

		DOLLARS	CENTS
1.	Bonds (Schedule D)	1,122,291.15	
2.	Stocks (Schedule D)	4,398,437.90	
3.	Mortgage loans on real estate (Schedule B)	10,343,334.20	
4.	Real estate (Schedule A)		
4.1	Properties occupied by the Company (less $ - 0 - encumbrances)	$ 601,343.55	
4.2	Properties acquired in satisfaction of debt (less $ - 0 - encumbrances)	- 0 -	
4.3	Investment real estate (less $175,939.70 encumbrances)	788,366.67	1,389,710.22
5.	Policy loans	343,755.92	
6.	Premium notes		
7.	Collateral loans (Schedule C)	298,267.56	
8.	Cash and bank deposits (Exhibit 13)	1,309,212.35	
9.	Receivables from other companies	5,425.00	
10.			
10A.	Cash and invested assets $ 19,530,434.50 (Items 1 to 10)		
11.	Amounts recoverable from reinsurers (Schedule S)		
12.			
13.			
14.			
15.			
16.			
17.	Life insurance premiums and annuity considerations deferred and uncollected	1,553,137.00	
18.	Accident and health premiums due and unpaid effective after September 30th of current year	980,241.00	
19.	Interest and other investment income due and accrued	143,827.53	
20.	Net adjustment in assets and liabilities due to foreign exchange rates		
21.			
22.			
23.			
24.			
25.			
26.	TOTAL	22,207,660.03	

NOTE: The items on this page to agree with Exhibit 13, Col. 6.
State basis of valuation:

N. A. I. C. Valuation of Securities

LIABILITIES, SURPLUS AND OTHER FUNDS

		DOLLARS	CENTS
1.	Aggregate reserve for life policies and contracts (Exhibit 8)	11,666,839.00	
2.	Aggregate reserve for accident and health policies (Exhibit 9, Part 1)	4,789,926.00	
3.	Supplementary contracts without life contingencies (Exhibit 10, Col. 5)	20,609.00	
4.	Policy and contract claims		
4.1	Life (Exhibit 11, Part 1)	81,466.00	
4.2	Accident and Health (Exhibit 9, Part 2)	1,760,362.00	
5.	Policyholders' dividend accumulations (Exhibit 10, Col. 6)	1,280,451.00	
6.	Policyholders' dividends due and unpaid		
7.	Provision for policyholders' dividends payable in following calendar year—estimated amounts:		
7.1	Apportioned for payment to , 19 $		
7.2	Not yet apportioned	201,602.00	201,602.00
8.	Amount provisionally held for deferred dividend policies not included in Item 7		
9.	Premiums and annuity considerations received in advance less $ - 0 - discount; including $ - 0 - accident and health premiums	35,136.00	
10.	Liability for premium deposit funds	341,643.00	
11.	Policy and contract liabilities not included elsewhere:		
11.1	Surrender values on cancelled policies		
11.2			
11.3			
12.	Accounts Payable	30,225.38	
13.	Commissions to agents due or accrued – Life and Annuity $ - 0 - Accident and Health $ 29,808.00	29,808.00	
14.	General expenses due or accrued (Exhibit 5, Line 11)	52,632.54	
15.	Taxes, licenses and fees due or accrued (including $ 25,000.00 U. S. federal income tax) (Exhibit 6, Line 8)	420,173.25	
16.	"Cost of collection" on premiums and annuity considerations deferred and uncollected in excess of total loading thereon		
17.	Unearned investment income (Exhibit 3, Col. 2)	14,096.00	
18.	Amounts withheld or retained by company as agent or trustee	22,705.75	
19.	Amounts held for agents' account (including $ 25,776.91 agents' credit balances)	25,776.91	
20.	Remittances and items not allocated	14,607.08	
21.	Net adjustments in assets and liabilities due to foreign exchange rates		
22.	Liability for benefits for employees and agents if not included above		
23.	Borrowed money $ 319,653.38 and interest thereon $ 7,833.05	327,486.43	
24.	Dividends to stockholders declared and unpaid		
25.	Miscellaneous liabilities (give items and amounts)		
25.1	Mandatory securities valuation reserve	177,557.96	
25.2			
25.3			
25.4			
25.5			
25.6			
25.7			
25.8			
25.9			
26.	TOTAL LIABILITIES (Except Capital)	20,673,301.28	
27.	Special surplus funds:		
27.1	$		
27.2			
27.3	$		
28.	Capital paid-up 500,000.00		
29.	Unassigned surplus 1,034,338.75		
30.	Total of Items 27 to 29	1,534,338.75	
31.	TOTAL	22,207,640.03	

SUMMARY OF OPERATIONS
(ACCRUAL BASIS)

		DOLLARS CENTS
1.	Premiums and annuity considerations (Exhibit 1, Part 1)	
1.1	Life	7,761,041.28
1.2	Accident and health	18,196,330.67
2.	Considerations for supplementary contracts with life contingencies	
3.	Considerations for supplementary contracts without life contingencies and dividend accumulations	1,150,291.93
4.	Net investment income (Exhibit 2)	630,686.68
5.	Assets acquired through reinsurance	642,369.23
6.		
7.	TOTAL	28,330,519.61
	DEDUCT:	
8.	Death benefits	1,096,640.96
9.	Matured endowments	
10.	Annuity benefits	1,330.96
11.	Disability benefits	630.30
12.	Surrender benefits	131,063.89
12A.	Group conversions	
13.	Benefits under accident and health policies	7,665,010.22
14.	Interest on policy or contract funds	31,376.23
15.	Payments on supplementary contracts with life contingencies	
16.	Payment on supplementary contracts without life contingencies and of dividend accumulations	359,736.31
17.	Increase in aggregate reserve for policies and contracts with life contingencies	3,111,919.70
18.	Increase in reserve for supplementary contracts without life contingencies and for dividend accumulations	361,776.00
19.	Increase in aggregate reserve for accident and health policies	2,834,877.34
20.	Subtotal (Items 8 to 19)	25,605,199.70
21.	Commissions on premiums and annuity considerations	4,734,859.73
22.	Interest paid	39,689.87
23.	General insurance expenses (Exhibit 5, Cols. 1 and 2, Line 13)	2,336,763.57
24.	Insurance taxes, licenses and fees (Exhibit 6, Cols. 1 and 2, Line 10)	325,687.88
25.	Increase in loading on and cost of collection in excess of loading on deferred and uncollected premiums	72,139.31
26.	Acquisition expense of business acquired	4,665,302.17
27.	Total (Items 20 to 26)	37,567,642.31
28.	Net gain from operations before dividends to policyholders and excluding capital gains and losses (Item 7, minus Item 27)	758,697.06
29.	Dividends to life policyholders (Exhibit 7)	667,599.39
30.	Dividends on accident and health policies (Exhibit 7)	
31.	Increase in amount provisionally held for deferred dividend policies	
32.	TOTAL (Items 29 to 31)	667,599.39
33.	NET GAIN FROM OPERATIONS AFTER DIVIDENDS TO POLICYHOLDERS AND EXCLUDING CAPITAL GAINS AND LOSSES (Item 28 minus Item 32)	91,097.67

SURPLUS ACCOUNT

		DOLLARS CENTS			DOLLARS CENTS
34.	Special surplus funds December 31, previous year		43.	Dividends to stockholders	125,000.00
35.	Unassigned surplus December 31, previous year	1,028,399.11	44.		
36.	Prior years depreciation	13,056.66	44A.		
36A.			44B.		
36B.			45.	Net capital losses (Exhibit 4, Col. 6)	
37.	Net gain (from Item 33)	91,097.67	46.	Increase in reserve on account of change in valuation basis	
38.	Net capital gains (Exhibit 4, Col. 5)	103,599.33	47.	Net loss from non-admitted and related items (Exhibit 14, Col. 3, Line 40)	93,871.09
39.	Surplus paid in		48.	Increase in mandatory securities valuation reserve	11,239.43
40.	Net gain from non-admitted and related items (Exhibit 14, Col. 3, Line 40)		49.	Special surplus funds December 31, current year (Item 27, Page 3)	
41.	Decrease in mandatory securities valuation reserve		50.	Unassigned surplus December 31, current year (Item 29, Page 3)	1,036,339.25
42.	Total	1,275,369.77	51.	Total	1,275,369.77

Form 1

ANNUAL STATEMENT FOR THE YEAR 1961 OF THE STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

(Make in Dollar Units)

ANALYSIS OF OPERATIONS BY LINES OF BUSINESS

(Gain and Loss Exhibit)

	Total (1)	Industrial Life (Excluding Total and Permanent Disability and Accidental Death Benefits) (2)	Ordinary: Life Insurance (3)	Ordinary: Total and Permanent Disability (4)	Ordinary: Accidental Death (5)	Ordinary: Individual Annuities (6)	Ordinary: Supplementary Contracts (7)	Group: Life Insurance (8)	Group: Annuities (9)	Accident and Health: Group (10)	Accident and Health: Individual (11)
1. Premiums and annuity considerations (Exhibit 1, Part 1)	25,967,391.73		6,067,060.17	46,872.39	33,012.32	- 0 -	X X X	1,816,136.30	- 0 -	4,795,630.58	13,390,693.89
2. Considerations for supplementary contracts with life contingencies			X X X	X X X	X X X	X X X				X X X	X X X
3. Considerations for supplementary contracts without life contingencies and dividend accumulations	1,108,291.93		1,108,291.93								
4. Net investment income (Exhibit 2)	825,486.48		390,686.29	3,096.84	1,142.73	1,351.01	499.44	31,812.16			
5. Assets acquired through reinsurance	847,369.25		72,317.06								369,832.19
6.											
7. Totals	28,748,539.41		7,638,377.45	49,969.23	34,155.05	1,351.01	499.44	1,847,948.46		4,795,630.58	13,760,526.08
8. Death benefits	1,044,640.96		460,985.23	X X X	37,500.00	X X X		606,155.73	X X X	X X X	X X X
9. Matured endowments				X X X	X X X	X X X			X X X	X X X	X X X
10. Annuity benefits	1,550.94		X X X	X X X	X X X	1,550.94		X X X		X X X	X X X
11. Disability benefits	650.30		X X X	650.30	X X X					X X X	X X X
12. Surrender benefits	131,063.89		131,063.89	X X X	X X X	X X X			X X X	X X X	X X X
12A. Group conversions					X X X	X X X			X X X		
12B. Transfers on account of group package policies and contracts	X X X	X X X	X X X	X X X	X X X	X X X	X X X				X X X
13. Benefits under accident and health policies	7,465,010.22	X X X	X X X	X X X	X X X	X X X	X X X	X X X	X X X	3,918,558.59	4,366,631.64
14. Interest on policy or contract funds	31,174.35		30,565.35				609.00				
15. Payments on supplementary contracts with life contingencies			X X X	X X X	X X X	X X X				X X X	X X X
16. Payments on supplementary contracts without life contingencies and of dividend accumulations	353,236.31		353,236.31								
17. Increase in aggregate reserve for policies and contracts with life contingencies	3,111,219.70		3,107,286.00	3,993.82	8,373.00	-486.00		-4,805.18			
18. Increase in reserves for supplementary contracts without life contingencies and for dividend accumulations	361,776.00		361,776.00								
19. Increase in aggregate reserve for A&H Policies	1,956,877.36									636,378.00	1,320,369.36
20. Subtotals (Items 8 to 19)	15,655,199.79		4,666,912.58	3,602.12	35,773.00	1,064.94	609.00	599,350.59		3,565,086.59	6,776,803.99
21. Commissions on premiums and annuity considerations	4,736,859.78		1,069,201.71	8,605.31	5,480.53			370,686.46		869,732.36	2,851,559.23
22. Interest paid	39,089.87		38,350.77	239.33	168.68			7,139.09			
23. General insurance expenses (Exhibit 3, Cols. 1 and 2, Line 13)	3,326,763.37		723,102.95	5,592.89	3,896.78			192,584.35		380,372.61	1,018,616.59
24. Taxes, licenses and fees (Exhibit 6, Cols. 1 and 2, Line 10)	325,687.86		56,864.57	409.66	311.66			13,162.85		68,026.57	189,952.77
25. Increase in loading on and cost of collection in excess of loading on deferred and uncollected premiums	72,139.33		31,636.99					20,714.39			
26. Acquisition expenses of business acquired	6,665,302.17		326,665.96								6,338,636.21
27. Totals (Items 20 to 26)	27,347,042.35		6,882,345.53	18,369.29	45,630.65	1,064.94	609.00	1,003,637.53		5,883,214.13	16,173,251.66
28. Net gain from operations before dividends to policyholders and excluding capital gains and losses (Item 7 minus Item 27)	758,897.06		955,432.92	31,720.16	-11,473.50	286.08	-109.56	263,362.86		-87,581.54	-412,815.32
29. Dividends to life policyholders (Exhibit 7)	667,599.59		667,599.59							X X X	X X X
30. Dividends on accident and health policies (Exhibit 7)		X X X	X X X	X X X	X X X	X X X	X X X	X X X	X X X		
31. Increase in amounts provisionally held for deferred dividend policies										X X X	X X X
32. Totals (Items 29 to 31)	667,599.59		667,599.59								
33. Net gain from operations after dividends to policyholders and excluding capital gains and losses (Item 28 minus Item 32)	91,297.47		287,833.33	31,720.16	-11,473.50	286.08	-109.56	263,362.86		-87,581.54	-412,815.32

Form 1 ANNUAL STATEMENT FOR THE YEAR 1961 OF THE STANDARD LIFE AND ACCIDENT INSURANCE CO PART

ANALYSIS OF INCREASE IN RESERVES DURING THE YEAR
(Gain and Loss Exhibit)

	TOTAL (1)	INDUSTRIAL LIFE (Including Total and Permanent Disability and Accidental Death Benefits) (2)	ORDINARY					GROUP	
			Life Insurance (3)	Total and Permanent Disability (4)	Accidental Death Benefits (5)	Individual Annuities (6)	Supplementary Contracts (7)	Life Insurance (8)	Annuities (9)
1. Reserve Dec. 31 of previous year	9,486,595		8,961,223	50,673	13,558	36,574	10,300	460,967	
2. Tabular net premiums or considerations	4,806,486		3,882,380	37,655	21,138		10,000	805,121	
3. Considerations for supplementary contracts without life contingencies and dividend accumulations	1,108,291		1,108,291						
4. Present value of disability claims incurred			X X X		X X X		X X X		
5. Tabular interest	388,865		383,453	1,918	707	778	309	19,682	
6. Tabular less actual reserve released	391	X X X	X X X		X X X	391			
7. Increase in reserve on account of change in valuation basis									
8. Other increases (net)									
9. TOTALS (Items 1 to 8)	15,788,501		14,297,346	90,246	37,393	37,639	20,609	1,335,970	
10. Tabular cost	1,096,618		976,160	23,457	8,451		X X X	891,608	
11. Reserves released by death	160,652		160,652	X X X	X X X	X X X	X X X		X X X
12. Reserves released by other terminations (net)	438,767		419,486	4,312	5,151				
13. Annuity, supplementary contract, disability and accumulated dividend payments	734,787		353,236			1,551			
14. TOTAL DEDUCTIONS (Items 10 to 13)	2,820,603		1,887,332	36,869	13,302	1,551		891,608	
15. Reserve Dec. 31 of current year	12,967,899		12,410,314	53,395	23,831	36,088	20,609	433,462	

Form 1

ANNUAL STATEMENT FOR THE YEAR 1961 OF THE STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

EXHIBIT 1

		TOTAL (1)	INDUSTRIAL LIFE (Excluding Total and Permanent Disability and Accidental Death Benefits) (2)	ORDINARY				GROUP		ACCIDENT AND HEALTH		
				Life Insurance (3)	Total and Permanent Disability (4)	Additional Accidental Death (5)	Individual Annuities (6)	Life Insurance (7)	Annuities (8)	Group (9)	Individual (10)	
	PART 1—Premiums and Annuity Considerations (Gross, Less Reinsurance)											
CURRENT YEAR	**FIRST YEAR (Other Than Single)**											
	1. Uncollected	30,686.00		49,836.00	488.00	374.00						1.
	2. Deferred	357,243.00		351,498.00	3,251.00	2,494.00						2.
	3. Line 1 + Line 2	387,929.00		381,322.00	3,739.00	2,868.00						3.
	4. Advance											4.
	5. Line 3 — Line 4	387,929.00		381,322.00	3,739.00	2,868.00						5.
	6. Collected during year	902,049.69		867,782.33	8,921.61	5,345.75						6.
	7. Line 5 + Line 6	1,289,978.69		1,249,104.33	12,660.61	8,213.75						7.
	8. Previous year (uncollected + deferred — advance)	+ 387,671.44		380,930.93	3,739.10	2,801.42						8.
	9. First year premiums and considerations Line 7 — Line 8	902,307.25		868,173.41	8,921.51	5,412.33				INCLUDED IN RENEWAL		9.
	SINGLE											
	10. Single premiums and considerations	2,610,795.87						1,033,608.10		1,569,005.65	17,172.12	10.
	RENEWAL											
CURRENT YEAR	11. Uncollected	1,681,197.00		688,581.00	9,817.00	940.00		128,398.00		119,955.00	860,286.00	11.
	12. Deferred	1,086,936.00		1,077,031.00	9,942.00	1,983.00						12.
	13. Line 11 + Line 12	2,686,133.00		1,765,612.00	8,759.00	2,923.00		128,398.00		119,955.00	860,286.00	13.
	14. Advance	35,136.00		34,687.00	262.00	187.00						14.
	15. Line 13 — Line 14	2,650,997.00		1,730,925.00	8,497.00	2,736.00		128,398.00		119,955.00	860,286.00	15.
	16. Collected during year	23,161,511.53		6,666,670.39	37,167.36	29,297.03		557,926.00		3,221,939.82	12,632,622.99	16.
	17. Line 15 + Line 16	25,812,508.53		8,397,595.39	45,664.36	32,033.03		686,426.00		3,341,894.82	13,490,908.99	17.
	18. Previous year (uncollected + deferred — advance)	1,387,609.90		1,036,736.59	7,693.36	4,633.14		105,895.89		115,263.89	117,387.22	18.
	19. Renewal premiums and considerations Line 17 — Line 18	24,424,898.63		7,360,858.76	37,951.08	27,399.89		580,528.20		3,226,630.93	13,373,521.77	19.
	TOTAL											
	20. Total premiums and annuity considerations Lines 9, 10 and 19 (to agree with Item 1, Page 6)	25,967,391.75		8,867,049.17	46,872.59	33,012.22	- 0 -	1,614,136.30	- 0 -	4,795,636.58	13,390,693.89	20.
	PART 2—Dividends Applied, Reinsurance Ceded and Commissions Incurred											
	DIVIDENDS APPLIED (Included in Part 1)											
	21. To pay renewal premiums (Exhibit 7, Line 1)	203,682.79		203,682.79								21.
	22. All other (Exhibit 7, Lines 2, 3 and 4)	3,611.62		3,611.62								22.
	REINSURANCE CEDED (Deductions in Part 1)											
	23. First year (other than single)	14,651.43		13,277.20	730.50	643.73						23.
	24. Single	140,890.39						140,890.39				24.
	25. Renewal	166,620.79		84,057.61	6,162.62	7,887.36				8,675.44	37,837.76	25.
	26. Total	320,162.61		97,334.81	6,913.12	8,511.09		140,890.39		8,675.44	37,837.76	26.
	COMMISSIONS INCURRED											
	27. First year (other than single)	895,885.05		866,879.96	5,806.91	5,474.26					169,899.03	27.
	28. Single	1,165,985.03						548,452.03		608,137.44	9,396.36	28.
	29. Renewal	3,262,981.87		602,370.77	2,691.00	2,005.79		22,032.43		261,596.92	2,072,348.96	29.
	30. Total (to agree with Item 21, Page 5)	6,724,852.75		1,469,201.73	8,605.31	5,480.53		570,484.46		869,732.36	2,251,555.35	30.

EXHIBIT 2 NET INVESTMENT INCOME
(Accrual Basis)

		DOLLARS	CENTS
1.	Total interest, dividends and real estate income (Exhibit 3, Col. 7, Line 10)	702,621.92	
2.	Investment expenses (Exhibit 5, Col. 3 Line 13)	36,479.73	
3.	Taxes, licenses and fees (Exhibit 6, Col. 3, Line 10)	7,551.71	
4.	Depreciation on real estate	30,104.00	
5.			
6.	Total (Lines 2 to 5 inclusive)	74,135.44	
7.	NET INVESTMENT INCOME — Line 1 less Line 6 (to Item 4, Page 4)	628,486.48	
8.	Ratio of net investment income to mean assets (see instructions)	.0384	%
9.	Ratio of net investment income to mean assets before federal income tax, if any, included in line 3	.0384	%

EXHIBIT 3—INTEREST, DIVIDENDS AND REAL ESTATE INCOME

		Collected During Year (1)	CURRENT YEAR Uncarned (2)	Due (3)	Accrued (4)	Non-Admitted (5)	Prior Year ((3)+(4)−(2)−(5)) (6)	Earned During Year ((1)+(2)−(3)+(4)+(5)−(6)) (7)
1.	Interest on bonds	71,319.68			12,867.57		21,562.17	62,625.08
2.	Dividends on stocks	4,329.13						4,329.13
3.	Interest on mortgage loans	429,308.19		16,537.02	109,338.03		66,965.77	469,217.47
4.	Real estate income	117,246.17			7,833.05		260.30	109,673.42
5.	Interest on premium notes, policy loans and liens	29,085.45	14,096.00				9,635.14	24,686.59
6.	Interest on collateral loans	9,920.52		1,625.00	3,479.91		1,935.20	15,090.23
7.	Interest on bank deposits							
8.								
9.								
10.	TOTALS	661,209.14	14,096.00	18,162.02	117,852.46	-0-	80,487.70	702,621.92

*Includes $ 826.88 accrual of discount less $ 294.56 amortization of premium and less $ 426.57 paid for accrued interest on purchases.
†Excludes $ 1,310.41 paid for accrued dividends on purchases.
**Includes $ 16,207.03 accrual of discount less $ none amortization of premium and less $ 6,063.89 paid for accrued interest on purchases.
***Includes $ 85,000.00 for company's occupancy of its own buildings; and excludes $ 2,560.32 interest on encumbrances.

Show loans of exclusive:
Bonds † none
Stocks none
Mortgage loans none
Real estate none
Collateral loans none
Bank deposits none

*EXHIBIT 4—CAPITAL GAINS AND LOSSES ON INVESTMENTS

		Increase in Book Value (1)	*Profit on Sale or Maturity (2)	Decrease in Book Value (3)	Loss on Sale or Maturity (4)	Net Gain (+) or Loss (−) From Change in Difference Between Book and Admitted Values (5)	Net Gain (+) or Loss (−) ((1)+(2)−(3)−(4)+(5)) (6)
1.	Bonds		10,701.65		12,671.01	216.65	- 1,752.71
2.	Stocks		42,334.19			120,880.75	163,214.94
3.	Mortgage loans						
4.	Real estate			** 19,866.00			- 19,866.00
5.	Premium notes, policy loans and liens						
6.	Collateral loans						
7.	Cash and bank deposits						
8.	Foreign exchange	X X X	X X X	X X X	X X X		
9.							
10.	TOTALS	-0-	53,035.84	19,866.00	12,671.01	121,097.40	141,596.23

DISTRIBUTION OF LINE 10, COL. (6). (Attach statement or memorandum explaining bases of division).

11.	Net realized capital gains (+) or losses (−) on assets disposed of during the year $ 40,364.83 , less $ 36,606.75 reflected in previous years' statements			40,364.83
12.	Net unrealized capital gains (+) or losses (−) of the year			121,097.40

*Adjustments due to amortization to be reported on Exhibit 5.
**Including $ 10,106.00 depreciation on real estate included in Exhibit 2, Line 4.

EXHIBIT 5 GENERAL EXPENSES

		INSURANCE Life (1)	INSURANCE Accident and Health (2)	INVESTMENT (3)	TOTAL (4)
1.	Rent	77,956.18	111,615.18	6,865.65	196,627.01
2.	Salaries and wages	361,733.78	518,970.90	22,583.20	903,327.88
3.11	*Contributions for benefit plans for employees	6,240.66	8,952.04	389.35	15,582.05
3.12	*Contributions for benefit plans for agents				
3.21	Payments to employees under non-funded benefit programs	110.00			110.00
3.22	Payments to agents under non-funded benefit programs				
3.31	Other employee welfare	13,765.39	19,746.70	859.28	34,371.37
3.32	Other agent welfare	21,025.39	43,867.79		64,893.18
3.4					
4.1	Legal fees and expenses	5,313.91	7,349.45	325.47	13,018.83
4.2	Medical examination fees	20,707.56	3,273.74		23,981.70
4.3	Inspection report fees	19,170.16	39,997.01		59,167.17
4.4	Fees of public accountants and consulting actuaries	2,999.31	250.00	525.00	3,774.31
4.5	Expense of investigation and settlement of policy claims	18,658.92	33,256.46		51,915.38
4.6					
5.1	Traveling expenses	125,059.16	260,905.03		385,964.19
5.2	Advertising	17,656.01	36,837.85		54,493.86
5.3	Postage, express, telegraph and telephone	17,355.86	36,211.65		53,567.53
5.4	Printing and stationery	25,476.16	53,153.97		78,630.13
5.5	Cost or depreciation of furniture and equipment	17,670.82	25,349.10	1,103.08	44,123.00
5.6	Rental of equipment	25,833.21	53,898.93		79,732.14
5.7					
6.1	Books and periodicals	4,325.68	6,202.59	269.80	10,795.97
6.2	Bureau and association dues	1,163.61	1,669.23	72.64	2,905.48
6.3	Insurance, except on real estate	1,623.62	3,387.54		5,011.16
6.4	Miscellaneous losses	4,824.36	8,396.49		13,220.85
6.5	Collection and bank service charges	1,373.52	1,683.43	73.36	3,130.21
6.6	Sundry general expenses				
6.7	Group service and administration fees				
6.8					
7.1	Agency expense allowance	28,726.34	59,936.04		88,662.38
7.2	Agents' balances charged off (less $ -9- recovered)	44,928.13	14,976.04		59,904.17
7.3	Agency conferences other than local meetings	40,170.07	4,463.34		14,633.41
8.1					
8.2					
9.1	Real estate expenses	15,159.59	31,629.26		46,788.85
9.2	Investment expenses not included elsewhere			24,886.84	24,886.84
9.3					
10.	GENERAL EXPENSES PAID	917,946.02	1,386,309.54	55,953.90	2,360,209.46 (To Line 11, Exhibit 11)
11.	General expenses unpaid December 31, current year	23,078.21	30,237.92	1,313.41	53,632.54
12.	General expenses unpaid December 31, previous year	13,049.96	17,758.78	789.98	31,598.72
13.	General expenses incurred during year (10+11−12)	925,974.27	1,398,788.70	56,477.33	2,381,243.28 (To Line 1, Exhibit 7)

(To Item 13, Page 3)

A. Compensation to agents on a plan other than commissions, included in Col. (1): First year $ None , Renewal $ None
B. Agency supervision, except Home Office, included in Col. (1): Line 2 $ None , Line 5.1 $ None , Line 5 $
C. Branch office expenses other than those in A and B included in Col. (1): Line 1 $ None , Line 2 $ None , All other lines $ None

*These items include $ on account of prior service.

EXHIBIT 6—TAXES, LICENSES AND FEES

		INSURANCE Life (1)	INSURANCE Accident and Health (2)	INVESTMENT (3)	TOTAL (4)
1.	Real estate taxes			9,429.61	9,429.61
2.	State insurance department licenses and fees	3,279.05	6,841.46		10,120.51
3.	State taxes on premiums	35,841.25	74,779.90		110,621.15
4.	Other state taxes, incl. $ 9,026.09 Social Security	4,436.29	9,255.96		13,692.25
5.1	U. S. federal income tax	47,842.74	99,820.03		147,662.77
5.2	Other U. S. federal taxes, incl. $35,960.03 Social Security	8,436.97	17,603.06		26,040.03
6.	All other taxes				
7.	TAXES, LICENSES AND FEES PAID	99,836.30	208,300.41	9,429.61	317,566.32 (To Line 10, Exhibit 11)
8.	Taxes, licenses and fees unpaid December 31, current year	136,136.13	284,037.12		420,173.25
9.	Taxes, licenses and fees unpaid December 31, previous year	168,263.91	234,358.49	1,877.90	406,500.00
10.	Taxes, licenses and fees incurred during year (7+8−9)	67,708.52	257,979.34	7,551.71 (To Line 1, Exhibit 7)	333,239.57

(To Item 10, Page 3)

NOTE: Conclude and other foreign taxes are included appropriately at Lines 1, 2, 3, 4 and 6.

EXHIBIT 7 DIVIDENDS TO POLICYHOLDERS

		LIFE	ACCIDENT AND HEALTH
1.	Applied to pay renewal premiums	203,482.79	
2.	Applied to shorten the endowment or premium-paying period	3,611.62	
3.	Applied to provide paid-up additions		
4.	Applied to provide paid-up annuities		
5.	TOTAL (Lines 1-4)	207,094.41	
6.	Paid in cash	11,934.76	
7.	Left on deposit with the company	420,999.42	
8.			
9.	TOTAL (Lines 5-8)	639,997.59	
10.	Amount due and unpaid (Item 6, page 3)		
11.	Provision for annual dividend policies, including $ None terminal dividends (Item 7, page 3, in part)	301,602.00	
12.	Provision for deferred dividend policies (Item 7, page 3, in part)		
13.	TOTAL (Lines 10-12)	301,602.00	
14.	Line 13 of previous year	133,935.00	
15.	TOTAL DIVIDENDS TO POLICYHOLDERS (Lines 9+13-14)	467,589.59 (To Item 10, Page 3)	(To Item 10, Page 3)

EXHIBIT 8 - AGGREGATE RESERVE FOR LIFE POLICIES AND CONTRACTS

Valuation Standard (Indicate mortality and interest basis and valuation method by years of issue and in the case of annuities indicate whether immediate, deferred or both) (1)	Total (2)	Industrial (3)	Ordinary (4)	Group (5)
A. Life Insurance:				
1 Amer. Exp. 3½% (1946-1948) 111. Std.	4,630,861		4,630,861	
2 Comm. Std. Ord. 3½% (1957) CRVM	702,996		702,996	
3 Comm. Std. Ord. 3% (1951) CRVM	3,991,846		3,475,221	516,625
4 Comm. Std. Ord. 2½% (1951) CRVM	276,915		276,915	
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23 Total (Gross)	11,602,618		11,085,993	516,625
24 Reinsurance	131,831		48,668	83,163
25 Total (Net)	11,470,787		11,037,325	433,462
B. Annuities (excluding supplementary contracts with life contingencies):				
1 1937 Std. Ann. (Mod.) 2½%	26,088	X X X	26,088	
2		X X X		
3		X X X		
4		X X X		
5		X X X		
6		X X X		
7		X X X		
8		X X X		
9		X X X		
10		X X X		
11		X X X		
12		X X X		
13		X X X		
14		X X X		
15		X X X		
16		X X X		
17		X X X		
18		X X X		
19		X X X		
20		X X X		
21		X X X		
22		X X X		
23 Total (Gross)	26,088	X X X	26,088	
24 Reinsurance	-0-	X X X	-0-	
25 Total (Net)	26,088	X X X	26,088	
C. Supplementary Contracts With Life Contingencies:				
1				
2				
3				
4				
5 Total (Gross)				
6 Reinsurance				
7 Total (Net)				
D. Accidental Death Benefits:				
1 1926-1933 Double Indemnity Table 3%	27,225		27,225	
2				
3				
4				
5 Total (Gross)	27,225		27,225	
6 Reinsurance	3,394		3,394	
7 Total (Net)	23,831		23,831	
E. Disability - Active Lives:				
1 1926 Class (3) Table 3% (150% Mod.)	52,982		52,982	
2				
3				
4				
5				
6				
7 Total (Gross)	52,982		52,982	
8 Reinsurance	4,319		4,319	
9 Total (Net)	48,663		48,663	
F. Disability - Disabled Lives:				
1 1926 Class (3) Table 3% (150% Mod.)	4,962		4,962	
2				
3				
4				
5				
6				
7 Total (Gross)	4,962		4,962	
8 Reinsurance	-0-		-0-	
9 Total (Net)	4,962		4,962	

EXHIBIT 8 - AGGREGATE RESERVE FOR LIFE POLICIES AND CONTRACTS (Continued)

Valuation Standard (Indicate mortality and interest basis and valuation method by years of issue) (1)	Total (2)	Industrial (3)	Ordinary (4)	Group (5)
G. Miscellaneous Reserves:				
1. For excess of valuation net premiums over corresponding gross premiums on respective policies, computed according to the standard of valuation required by this state	92,508.00		92,508.00	
2. For non-deduction of deferred fractional premiums or return of premiums at the death of the insured				
3. For surrender values in excess of reserves otherwise required and carried in this schedule				
4.				
5.				
6.				
7. Total (Gross)	92,508.00		92,508.00	
8. Reinsurance	-0-		-0-	
9. Total (Net)	92,508.00		92,508.00	
H. Grand Total (Net)—Item 1, Page 3	11,666,839.00		11,233,377.00	433,462.00

EXHIBIT 8A - CHANGES IN BASES OF VALUATION DURING THE YEAR
(Including supplementary contracts set up on a basis other than that used to determine benefits)

	Description of Valuation Class	Valuation Bases: Changed from	Valuation Bases: Changed to	Increase in Actuarial Reserve Due to Change
1.				
2.				
3.	NONE			
4.				
5.				
6.				
7.	Total (to agree with Item 7, Page 6)			

GENERAL INTERROGATORIES

1. Has the company ever issued both participating and non-participating policies? Answer: Yes
2. Does the company at present issue both participating and non-participating policies? Answer: Yes
   If not, state which kind is issued.
   Answer:
3. State the amount of insurance, if any, on which the gross premiums are less than the net premiums according to the standard of valuation required by this State.
   Answer: $ None
   The additional reserve to cover deficiencies in gross premiums must be included on Exhibit 8 if not reported in G, 1 above, state amount: $ Not applicable
4. Does the Company waive deduction of deferred fractional premiums at death on any of its business?
   Answer: Yes, on CSO issues

3. State the amounts of insurance in force under each of the following plans:

	Non-Participating	Participating: Annual Dividend	Participating: Deferred Dividend
Industrial			
Ordinary	105,176,135	127,387,682	
Group	219,821,433		
Totals	324,997,568	127,387,682	

6. Is any surrender value promised in excess of the reserve as legally computed? Answer: No ..... If so, the amount of such excess must be included on C,1 above. Has this been done? Answer:

7. Attach statement of methods employed in the valuation of policies issued at, or subsequently subject to, an extra premium or in the valuation of policies on substandard lives classed as substandard in the year of issue and issued on the special class basis (without grade-up of reserves).
8. Has the company any assessment or stock fund premium policies in force?
   Answer: No If so, state
   Amount of insurance $
   Amount of reserve $
   Basis of reserve:
   Basis of regular assessments:
   Basis of special assessments:
   Assessments collected during year $

EXHIBIT 9—AGGREGATE RESERVE AND POLICY CLAIM LIABILITY FOR ACCIDENT AND HEALTH POLICIES

	Total (1)	Group Accident and Health (2)	Individual Policies: Accident Only (3)	Individual Policies: Accident and Health (4)	Individual Policies: Non-Cancellable Accident and Health (5)	Individual Policies: Hospital and Medical Expense (6)
PART 1—Aggregate Reserve						
1. Unearned premium reserve	4,789,926.00	951,829.00	1,930,151.00	3,110.00	876,316.38	1,026,158.00
2. Additional reserves for guaranteed renewable policies					12,682.00	
3. Present value of amounts not yet due on claims						
4. Reserve for future contingent benefits (deferred maternity and other similar benefits)						
5.						
6.						
7. Total (Gross)	4,836,439.20	960,506.44	1,937,564.85	4,213.53	888,998.38	1,026,158.00
8. Reinsurance	46,513.20	8,675.44	7,413.85	1,103.53	29,320.38	
9. Total (Net) (to Item 2, Page 3)	4,789,926.00	951,829.00	1,930,151.00	3,110.00	859,678.00	1,026,158.00
PART 2—Policy Claim Liability End of Current Year						
1. Due and unpaid						
2. In course of settlement						
3. Incurred but unreported (less reinsurance)	1,260,362.00	441,632.00	211,854.00	4,240.00	125,008.00	477,628.00
4. Total	1,260,362.00	441,632.00	211,854.00	4,240.00	125,008.00	477,628.00
5. Less reinsurance on reported claims (Schedule S)						
6. Net Liability (to Item 4.2, Page 3)	1,260,362.00	441,632.00	211,854.00	4,240.00	125,008.00	477,628.00

Workable portion of holiday applicable to weekly "accident" payments. Reserve for unearned payments appears at Item 2, Page 3 (see Part 1).

EXHIBIT 10 - SUPPLEMENTARY CONTRACTS WITHOUT LIFE CONTINGENCIES AND DIVIDEND ACCUMULATIONS

	Valuation Rate (1)	Contract Rate or Rates (2)	Supplementary Contracts without Life Contingencies: Present Value of Amounts Not Yet Due (3)	Supplementary Contracts without Life Contingencies: Amount Left on Deposit (4)	Supplementary Contracts without Life Contingencies: Totals (5)	Dividend Accumulations (6)
1.						
2.	3	3		30,609.00	30,609.00	1,260,453.00
3.						
4.						
5.						
6.						
7.	Totals (as per Items 3 and 5, Page 3)			30,609.00	30,609.00	1,260,453.00

Indicate number of each class corresponding to each valuation rate.

Form 1

ANNUAL STATEMENT FOR THE YEAR 1961 OF THE STANDARD LIFE AND ACCIDENT INSURANCE COMPANY

EXHIBIT 11—POLICY AND CONTRACT CLAIMS FOR OTHER THAN ACCIDENT AND HEALTH POLICIES

PART 1—Liability End of Current Year

	Total (1)	Industrial Life (Including Total and Permanent Disability and Accidental Death Benefits) (2)	Ordinary: Life Insurance (3)	Ordinary: Total and Permanent Disability (4)	Ordinary: Accidental Death (5)	Ordinary: Supplementary Contracts (6)	Ordinary: Supplementary Contracts (7)	Group: Life Insurance (8)	Group: Annuities (9)
1. Due and unpaid	None								
2. In course of settlement:									
2.1 Resisted									
2.2 Other									
3. Incurred but unreported (less reinsurance)	81,466.00		33,318.00					48,148.00	
4. Total	81,466.00		33,318.00					48,148.00	
5. Less reinsurance on reported claims (Schedule S)									
6. Net Liability (Column 1 to Item 4.1, Page 3)	81,466.00		33,318.00					48,148.00	

*Including matured endowments unpaid amounting to $ -0- **Including matured endowments unpaid amounting to $ -0-
Exclude only portion of liability applicable to assumed "accrued" payments. Reserve for unaccrued payments $ -0- appears in Item 1, Page 3. (See Exhibit 8, Section F.)

PART 2—Incurred During the Year

	Total (1)	Industrial Life (Including Total and Permanent Disability and Accidental Death Benefits) (2)*	Ordinary: Life Insurance (3)**	Ordinary: Total and Permanent Disability (4)	Ordinary: Accidental Death (5)	Ordinary: Supplementary Contracts (6)	Ordinary: Supplementary Contracts (7)	Group: Life Insurance (8)	Group: Annuities (9)
1. Settlements during the year	1,176,576.65		568,173.52	650.30	27,500.00	1,550.94		578,699.89	
2. Deduct reinsurance	110,506.29		110,506.29						
3. Net settlements (Line 1 minus Line 2)	1,066,068.36		457,667.23	650.30	27,500.00	1,550.94		578,699.89	
4. Net liability December 31, current year from Part 1	81,466.00		33,318.00					48,148.00	
5. Amounts recoverable from reinsurers December 31, previous year									
6. Line 3 plus Line 4 plus Line 5	1,147,534.36		490,985.23	650.30	27,500.00	1,550.94		626,847.89	
7. Net liability December 31, previous year	30,692.18		32,000.00					19,692.18	
8. Amounts recoverable from reinsurers December 31, current year (Schedule S)									
9. Line 7 plus Line 8	30,692.18		32,000.00					19,692.18	
10. Net Incurred Claims (Line 6 minus Line 9)	1,116,842.18		460,985.23	650.30	27,500.00	1,550.94		606,155.71	

*Including matured endowments amounting to $ -0- in Line 1 and $ -0- in Line 10. **Including matured endowments amounting to $ -0- in Line 1 and $ -0- in Line 10.
(Equals sum of Lines 10.1, 17 and 22, Exhibit 12. Includes $ 650.30 premiums waived under total and permanent disability benefits.

EXHIBIT 17—RECONCILIATION OF LEDGER ASSETS

			DOLLARS CENTS
INCREASES IN LEDGER ASSETS			
1.	Premiums on life policies and annuity considerations (see Exhibit 1, Part 1)		3,366,606.31
2.	Accident and health cash premiums, including $ 39,067.13 policy, membership and other fees		17,630,760.34
3.	Consideration for supplementary contracts with life contingencies		
4.	Consideration for supplementary contracts without life contingencies including $ disability and Endowment		
5.	Dividends left with the Company to accumulate at interest		3,100,391.93
6.	Interest, dividends and real estate income (Exhibit 3, Column 1)		681,209.36
7.	Increase of paid-up capital during the year		
8.	From other sources (give items and amounts):		
8.1	Assets acquired through reinsurance		667,369.23
8.2			
8.3			
9.	Borrowed money gross $, less amount repaid $		
10.			
11.	Increase in ledger liabilities		236,039.60
12.			
13.	From sale or maturity of ledger assets (Exhibit 4, Column 2)		55,035.86
14.	By adjustment in book value of ledger assets (Exhibit 4, Column 1)		
15.	TOTAL INCREASES IN LEDGER ASSETS		27,443,312.43
DECREASES IN LEDGER ASSETS			
16.	Policy and contract claims:		
16.1	Life (see Exhibit 11, Part 2)	1,066,317.42	
16.2	Accident and health	7,082,036.74	
17.	For annuities with life contingencies, excluding payments on supplementary contracts (including cash refund payments)	1,350.96	
18.	Premium notes and liens voided by lapse, less $ restorations		
19.	Surrender values	331,041.89	
19A.	Group conversions		
19B.	Interest on policy or contract funds	30,212.39	
20.	Dividends to policyholders:		
20.1	Life insurance and annuities (Exhibit 7)	439,991.39	
20.2	Accident and health (Exhibit 7)		8,950,197.17
21.	TOTAL PAID POLICYHOLDERS		
22.	Paid for claims on supplementary contracts:		
22.1	With life contingencies		
22.2	Without life contingencies		353,336.21
23.	Dividends and interest thereon held on deposit disbursed during the year		
24.			
25.			
26.	Commissions to agents (less commissions on reinsurance):		
26.1	Life insurance and annuities (including $ commuted commissions)	1,633,833.92	
26.2	Accident and health (including $ commuted commissions)	3,051,777.60	
26.3	Policy, membership and other fees retained by agents	39,087.13	4,724,700.65
27.	General expenses (Exhibit 5, Line 10)		3,360,209.48
28.	Taxes, licenses and fees (Exhibit 6, Line 7)		317,364.32
29.	Decrease of paid-up capital during the year		
30.	Paid stockholders for dividends (cash $ 123,000.00 , stock $)		123,000.00
31.	Borrowed money repaid gross $ less amount borrowed $		
32.	Interest on borrowed money		39,889.87
33.	Cost of acquisition of other insurance companies		6,663,302.17
34.			
35.			
36.	From sale or maturity of ledger assets (Exhibit 4, Column 4)		32,671.01
37.	By adjustment in book value of ledger assets (Exhibit 4, Column 3 and Exhibit 2 ,Line 4)		29,970.00
38.	TOTAL DECREASES IN LEDGER ASSETS		21,578,962.80
RECONCILIATION BETWEEN YEARS			
39.	Amount of ledger assets December 31st of previous year		13,735,046.46
40.	Increase ( ) or decrease (—) in ledger assets during the year (Line 15 minus Line 38)		5,863,769.77
41.	TOTAL LEDGER ASSETS DECEMBER 31ST OF CURRENT YEAR		19,598,836.23

EXHIBIT 13 ASSETS

		Ledger Assets (1)	Non-Ledger Assets (2)	Assets Not Admitted (3)	Net Admitted Assets (4)
1.	Bonds	1,119,934.45	2,356.70		1,122,291.15
2.	Stocks	4,128,189.71	670,248.19		4,798,437.90
3.	Mortgage loans on real estate:				
3.1	First liens	10,363,336.20			10,363,336.20
3.2	Other than first liens				
4.	Real estate (less $ 175,039.70 encumbrances):				
4.1	Properties occupied by the company	601,363.55			601,363.55
4.2	Properties acquired in satisfaction of debt				
4.3	Investment real estate	788,366.67			788,366.67
5.	Policy loans	363,755.91			363,755.91
6.	Premium notes (including $ for first year premiums)				
7.	Collateral loans	398,367.36			398,367.36
8.	Cash and bank deposits:				
8.1	Cash in company's office	895.35			895.35
8.2	Deposits in banks and trust companies (Schedule E)	1,308,316.20			1,308,316.20
9.	Receivable from other companies	5,423.00			5,423.00
10.					
11.	Amounts recoverable from reinsurers				
12.	Other assets (give items and amounts):				
12.1	Agents' balances (debit $59,903. Deficit $23,776.91)	333,336.33		333,336.33	-0-
12.2	Bills receivable				-0-
12.3	Furniture and equipment	325,536.23		325,536.23	-0-
12.4	Cash advanced to or in hands of officers or agents	1,300.00		1,300.00	-0-
12.5	Loans on personal security, endorsed or not				-0-
12.6					
13.	Automobiles owned	81,062.06		81,062.06	-0-
14.					
15.					
16.					
17.	Life insurance premiums and annuity considerations deferred and uncollected on in force Dec. 31st of current year (less reinsurance premiums):				
17.1	Industrial uncollected (excluding $940,636.00 loading)	-0-			
17.2	Ordinary deferred and uncollected—New business (excluding $247,702.00 loading)	160,327.00			
17.3	Ordinary deferred and uncollected—Renewal (excluding $284,396.00 loading)	1,331,900.00			
17.4	Group life deferred and uncollected (excluding $68,330.00 loading)	60,010.00			
17.5	Group annuity uncollected (excluding $ loading)	-0-			
17.6	TOTAL (to Col. 3)	1,552,237.00	1,552,237.00		1,552,237.00
18.	Accident and health premiums due and unpaid		980,161.00		980,161.00
19.	Interest and real estate income due and accrued:				
19.1	Interest due and accrued		163,817.53		163,817.53
19.2	Real estate income due and accrued				
19.3					
20.	Net adjustment in assets and liabilities due to foreign exchange rates				
21.					
22.					
23.					
24.					
25.					
26.	TOTALS	19,598,836.23	3,169,810.42	561,004.62 *	22,207,642.03

EXHIBIT 14—ANALYSIS OF NON-ADMITTED ASSETS AND RELATED ITEMS
(Excluding Investment Adjustments Not Listed)

		Ledger Previous Year (1)	Ledger Current Year (2)	Changes for Year (Increase (-) or Decrease (+)) (3)	
27.	Company's stock owned			X X X X X	
28.	Loans on company's stock				
29.	Supplies, stationery, printed matter				
30.	Furniture and equipment	93,259.62	121,536.85	- 32,276.83	
31.	Commuted commissions			X X X X X	
32.	Agents' balances (net)	299,732.32	333,736.33	- 33,436.01	
33.	Cash advanced to or in the hands of officers or agents	1,200.00	1,200.00	-0-	
34.	Loans on personal security endorsed or not				
35.	Bills receivable				
36.	Premium notes, etc., in excess of net value and other policy liabilities on individual policies			X X X X X	
37.	Accident and health premiums due and unpaid, if in excess price to (Order $)				
38.	Other assets not admitted (itemize)				
38.1	Automobiles owned	49,370.02	81,062.06	- 31,772.02	
38.2					
38.3					
39.	Agents' credit balances (Page 3, Item 19 inside)	25,438.43	23,776.91	+ 1,661.52	
40.	TOTALS (Col. 3)*	X X X X X	X X X X X	- 63,673.09	

*Carry to Item 40, page 4 of (1), or to Item 42, page 4 of (2)

Rev. 5-64 [illegible] 17

Department of the Treasury

Regional Commissioner
Internal Revenue Service
Southwest Region

Date: MAR 11 1971 | In reply refer to: AP:D:90-D

Certified Mail

Standard Life and Accident Insurance Company
421 N. W. 13th Street
Oklahoma City, Oklahoma 73103

Gentlemen:

Tax Year Ended	Deficiency	Addition to Tax Section 6653(a)
December 31, 1958	$25,974.93	$1,298.75
December 31, 1959	90,647.02	4,532.35
December 31, 1961	34,986.04	1,749.30

This letter is to notify you—as required by law—that we have determined the income tax deficiencies shown above. I regret we have been unable to reach a satisfactory agreement in your case. The enclosed statement shows how the deficiencies were computed.

If you do not intend to contest this determination in the United States Tax Court, please sign and return the enclosed waiver form. This will permit an early assessment of the deficiencies and limit the accumulation of interest. The enclosed self-addressed envelope is for your convenience.

If you decide not to sign and return the waiver, the law requires that after 90 days from the date of mailing this letter (150 days if this letter is addressed to you outside the United States and the District of Columbia) we assess and bill you for the deficiencies. However, if within the time stated you contest this determination by filing a petition with the United States Tax Court, Box 70, Washington, D.C. 20044, we may not assess any deficiencies and bill you until after the Tax Court has decided your case. You may obtain a copy of the rules for filing a petition by writing to the Clerk of the Tax Court at the Court's Washington, D.C. address.

If you intend to file a petition with the United States Tax Court, you must do so within the time stated above (90 or 150 days, as the case

may be); this period is fixed by law, and the Court cannot consider your case if your petition is filed late.

Under section 7463 of the Internal Revenue Code, the United States Tax Court has a simplified procedure for handling cases where the disputed portion of the deficiency does not exceed $1,000 for any one taxable year. You may obtain information on this special procedure as well as a copy of the rules for filing a petition with the Tax Court, by writing to the Clerk of the Tax Court at the Court's Washington, D.C. address.

Sincerely yours,
Randolph W. Thrower
Commissioner
By

J. L. Finch
Acting Chief
Appellate Branch Office

Enclosures:
Waiver, Form 870
Statement
Envelope

[EXHIBIT I]

(JANUARY 1961) | STATUTORY NOTICE STATEMENT | AP:D:DAB:MSA mw:90-D

Standard Life and Accident Insurance Company
421 N. W. 13th Street
Oklahoma City, Oklahoma 73103

KIND OF TAX
Income

TAXABLE YEAR ENDED	DEFICIENCY		ADDITION TO TAX SECTION 6653(a)
December 31, 1958	TAX	$25,974.93	$1,298.75
December 31, 1959		90,647.02	4,532.35
December 31, 1961		34,986.04	1,749.30
Total		$151,607.99	$7,580.40

It is determined that part of the underpayment of tax for the taxable years ended December 31, 1958, December 31, 1959 and December 31, 1961, is due to negligence or intentional disregard of rules and regulations. Consequently, the 5 per centum addition to the tax provided by section 6653(a) of the 1954 Internal Revenue Code is asserted for those years.

Copy to Authorized Representative:
Mr. Gene A. Castleberry
1911 Liberty Bank Building
Oklahoma City, Oklahoma 73102

Mr. Martin Bednar
1310 Liberty Bank Building
Oklahoma City, Oklahoma
73102

FORM 4089 (1-60)

FORM 4387 (REV. JAN. 1959) | DEPARTMENT OF THE TREASURY - INTERNAL REVENUE SERVICE | POLICYHOLDERS SHARE OF INVESTMENT YIELD (Not Includible in Taxable Investment Income) | SCHEDULE

Standard Life & Accident Insurance Co. | TAXABLE YEAR 1958

PART I – EARNINGS RATES

	(a) MEAN OF ASSETS (Same as Exhibit, Sheet 2)	(b) INVESTMENT YIELD (Sheet 5) SCHEDULE	(c) EARNINGS RATE PERCENT (Column (b) divided by Column (a))
CURRENT YEAR (Page 1, Exhibit A)	7,827,580.00	277,997.00	3.55151
FIRST PRECEDING YEAR	5,525,659.00	179,526.00	3.248795
SECOND PRECEDING YEAR	3,162,648.00	107,602.00	3.40228
THIRD PRECEDING YEAR	1,683,915.00	79,002.00	4.69157
FOURTH PRECEDING YEAR	1,156,398.00	46,242.00	3.99880
TOTAL (Include only years the company was an insurance company)			18.893711
AVERAGE EARNINGS RATE			3.778622

PART II – COMPUTATION OF ADJUSTED LIFE INSURANCE RESERVES

MEAN OF RESERVES (Same as return)		3,715,833.00
MULTIPLIED BY THAT PERCENTAGE WHICH EQUALS	100%	
INCREASED BY 10 TIMES THE AVERAGE RATE OF INTEREST ASSUMED. (As per return)	32.4864%	
SUB-TOTAL	132.4864%	
REDUCED BY 10 TIMES THE ADJUSTED RESERVE RATE (Lesser of line 1 (c) or line 7)	35.5151%	
LINE 11 LESS LINE 12		96.9713%
ADJUSTED LIFE INSURANCE RESERVES (Line 8 times line 13)		3,603,291.57

PART III – POLICYHOLDERS SHARE OF INVESTMENT YIELD

ADJUSTED LIFE INSURANCE RESERVES (From line 14 above)	3,603,291.57	
MULTIPLIED BY ADJUSTED RESERVE RATE (Lesser of line 1 (c) or line 7)	3.55151%	127,971.24
PENSION PLAN RESERVES (Line 14(c), Form 4383) SCHEDULE		
MULTIPLIED BY CURRENT EARNINGS RATE (Line 1 (c), above)		
INTEREST PAID (Same as return)		16,582.00
CONNECTED POLICY AND OTHER CONTRACT LIABILITY REQUIREMENTS (Total of lines 15, 18, and 19, above)		144,553.26
INVESTMENT YIELD (Line 22(c), Part 1)		277,997.00
POLICYHOLDERS SHARE (Line 20 divided by line 21)		51.9981%

GPO 870-300

FORM 4387 (REV. 1-59)
PAGE

(REV. AUG. 1954)

TAXABLE INVESTMENT INCOME

NAME: La. Land Life & Accident Insurance Co.

YEAR: 1958

1. POLICYHOLDERS' SHARE OF INVESTMENT YIELD - (Schedule)	81.9981%
2. COMPANY'S SHARE OF INVESTMENT YIELD	18.0019%
3. TOTAL	100%

	TOTAL (a)	EXCLUSION LINE (1) X COL. (a) (b)	COMPANY'S SHARE LINE (2) X COL. (a) (c)
4. INTEREST WHOLLY TAX-EXEMPT (Line 11(d), Schedule)	12,350.00	6,421.77	5,928.23
5. (a) DIVIDENDS RECEIVED FROM DOMESTIC CORPORATIONS (Line 7(d), Schedule)	13,668.00	7,107.10	6,560.90
(b) DIVIDENDS FROM CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES (Line 7(d), Schedule)	4,144.00	2,154.80	1,989.20
(c) DIVIDENDS FROM CERTAIN FOREIGN CORPORATIONS (Line 8(d), Schedule)			
6. OTHER ITEMS OF INVESTMENT YIELD (Line 22(d), Schedule less 4-7 above)	247,835.00	128,869.59	118,965.41
7. (a) LONG-TERM CAPITAL GAIN (Line 16(e), Schedule)*			
8. TOTAL OF LINES 4 THROUGH 7	277,997.00	144,553.26	133,443.74
9. INTEREST WHOLLY TAX-EXEMPT (Line 4(c) above)			5,928.23
10. 85% OF DIVIDENDS ON LINE 5(a) ABOVE			5,576.77
11. 6[illegible]% OF DIVIDENDS ON LINE 5(b) ABOVE			1,235.59
12. 85% OF DIVIDENDS ON LINE 7(c) AS LIMITED BY SECTION 245 (For computation, See Schedule)			
13. TOTAL OF LINES 12 THROUGH 14, BUT NOT TO EXCEED 85% OF TAXABLE INVESTMENT INCOME COMPUTED WITHOUT THIS DIVIDENDS RECEIVED DEDUCTION			6,812.36
16. SMALL BUSINESS DEDUCTION			25,000.00
17. TOTAL OF LINES 11, 15, AND 16			37,740.59
18. TAXABLE INVESTMENT INCOME (Line 10 less Line 17, but not less than zero)			95,703.15

* LINE 9 APPLICABLE ONLY TO YEARS BEGINNING AFTER DEC. 31, 1961

GPO 890-993

FORM 3350 Sheet 20 (REV. 8-54) Page

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(FEB. 1958)

COMPUTATION OF GAIN OR LOSS FROM OPERATIONS

NAME: Standard Life & Accident Insurance Co.

TAXABLE YEAR: 1958

INCOME

1. COMPANY SHARE OF INVESTMENT YIELD (Line 17(e), Form 4198) SCHEDULE .	138,626.00
2. NET LONG TERM CAPITAL GAIN (Line 4, Form 4381) SCHEDULE .	
3. GROSS PREMIUMS LESS RETURN PREMIUMS (Line 17, Sheet 21)	10,222,481.00
4. DECREASE IN SECTION 810(c) RESERVES, (Line 12, Form 4195) SCHEDULE .	
5. DECREASE IN SECTION 811 (b)(2) RESERVES (Line 11, Form 4199) SCHEDULE .	
6. OTHER AMOUNTS (Specify) SCHEDULE Line 24 Col. (d), Sheet 9 .	512,226.00
7. TOTAL (Lines 1 through 6)	10,873,333.00

DEDUCTIONS

8. DEATH BENEFITS (Sheet 11)	3,598,740.00
9. INCREASE IN SECTION 810(c) RESERVES (Line 10, Sheet 12) SCHEDULE .	1,865,748.09
10. CONSIDERATION PAID ON ASSUMPTION REINSURANCE	
11. INTEREST WHOLLY TAX-EXEMPT (Line 11(c), Form 4390) SCHEDULE .	6,158.45
12. INVESTMENT EXPENSES NOT DEDUCTED IN COMPUTING INVESTMENT YIELD (Line 8, Form 4302) SCHEDULE .	
13. SMALL BUSINESS DEDUCTION (not to exceed $25,000, limited for affiliated groups, 10% of line 22(d) Form 4399) SCHEDULE .	25,000.00
14. OTHER DEDUCTIONS (not deducted in computing investment yield) (Specify) SCHEDULE . Line 24, Col. (d), Sheet 9	1,435,472.68
15. TOTAL - (Lines 8 through 14)	9,931,319.22

DIVIDENDS RECEIVED DEDUCTION

16. 85% OF DIVIDENDS ON LINE 12(a), FORM 4390, SCHEDULE .	5,793.33	
17. (a) 62.115% OF DIVIDENDS ON LINE 13(a), FORM 4390, SCHEDULE .	1,283.58	
85% OF DIVIDENDS ON LINE 14(a), FORM 4390, SCHEDULE .		
100% OF DIVIDENDS ON LINE 15, COL. (c), FORM 4390, SCHEDULE .		
17. TOTAL OF LINES 16 THROUGH 19 BUT NOT TO EXCEED 85% OF TAXABLE INCOME WITHOUT THIS DEDUCTION. (Limitation does not apply to amounts on Line 19 above.)		7,076.91
18. OPERATIONS LOSS DEDUCTION (Per return or Exhibit)		
19. TENTATIVE DEDUCTION (Line 15 plus lines 20 and 21)		9,938,396.13
20. SPECIAL DEDUCTIONS SECTION 809(d)(3), (5) AND (6) AS LIMITED (Line 21 Form 4400) SCHEDULE .		467,989.00
21. TOTAL DEDUCTIONS (Line 22 plus line 23)		10,406,385.13
GAIN (Loss) FROM OPERATIONS (Difference between lines 7 and 24)		466,947.87

FORM 4401 (2-58)

PAGE

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(Feb. 1962) TRANSLUCENT

NET PREMIUMS
(GROSS PREMIUMS LESS RETURN PREMIUMS)

7 OF 66 PAGES

NAME: Standard Life & Accident Insurance Co.

YEAR: 1958

SCHEDULE

ITEM	PER BAR	INCREASE	DECREASE	CORRECTED
1. LIFE	3,094,874.00			3,077,874.00
2. GROUP LIFE	1,060,835.00			1,060,835.00
3. GROUP ANNUITY				
4. GROUP ACCIDENT & HEALTH	1,790,153.00			1,790,153.00
5. CASUALTY				
6. INDIVIDUAL A & H	3,546,026.00			3,546,026.00
7. Supplementary Contracts	673,880.00			673,880.00
Unallocated	35,284.00			35,284.00
Advance premiums		16,429.00	-0-	16,429.00
TOTAL	10,206,052.00	16,429.00	-0-	10,222,181.00

EXPLANATION

Advance premiums at 12-31-58 were not included in premiums income.

(Feb. 1962) TRANSLUCENT

INVESTMENT EXPENSES

9 OF 66 PAGES

NAME: Standard Life & Accident Insurance Co.

YEAR: 1958

SCHEDULE

[ ] INVESTMENT EXPENSES NOT ALLOWED IN COMPUTING INVESTMENT YIELD [X] OTHER DEDUCTIONS NOT ALLOWED IN COMPUTING INVESTMENT YIELD

[ ] OTHER AMOUNTS INCOME NOT INCLUDED IN COMPUTING INVESTMENT YIELD, AND NOT INCLUDED AS PREMIUMS, OR IN DECREASE IN RESERVES.

ITEM	(a) PER BAR	(b) INCREASE	(c) DECREASE	(d) CORRECTED
Commissions	2,228,553.00	42,266.99		2,270,819.99
Administrative Travel	25,014.00	5,000.00		30,014.00
Advertising	27,948.00			27,948.00
Printing and Stationery	120,926.00			120,926.00
Books and Periodicals	9,394.00			9,394.00
Salary General	4,252.00		856.55	3,395.45
Agents Balances Written off	-0-	38,553.00		38,553.00
Promotion and Entertainment	24,925.00			24,925.00
Depreciation	32,230.00	4,943.00		37,173.00
Amortization	12,352.00		12,352.00	-0-
	-0-	331.24		331.24
Increase in Loading *	-0-			-0-
Balance of Deductions	1,873,436.00		1,443.00 **	1,871,993.00
* The deduction of $65,308 claimed on return for increase in loading is not an allowable deduction.				
* Real Estate Expense				
TOTAL	4,357,030.00	91,094.23	14,651.55	4,435,472.68

FORM 3350 SHEET 12
(Feb 1962)
TRANSLUCENT

U.S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

SECTION 810(c) RESERVES

PAGE 13 OF 65 PAGES

NAME Standard Life and Accident Insurance Co. | YEAR 1958 | ☐ DECREASE (Section 810(a)) | ☑ INCREASE (Section 810(b)) | SCHEDULE

	(a) RESERVE AT BEGINNING OF TAXABLE YEAR	(b) RESERVE AT END OF TAXABLE YEAR	
1. SEE 810(C) (1) RESERVES (Same as return)	2,996,375.00	4,435,290.00	
2. SEE 810(C) (2) RESERVES (FROM LINE 14, SHEET 13)	637,289.00	1,027,997.07	
3. SEE 810(C) (3) RESERVES (FROM LINE 11, SHEET 10)			
4. SEE 810(C) (4) RESERVES (Same as return)	260,195.00	422,318.00	
5. SEE 810(C) (5) RESERVES (From Line 11, Sheet 10)	193,339.00	206,712.00	
6-A. REDUCTION FOR INVESTMENT YIELD (FROM _____)			
6-B. REDUCTION FOR REQUIRED INTEREST (FROM Line 6, Form 4390		139,371.00	
7. BALANCE (Total of lines 1-5 adjusted by line 6-A or 6-B)	4,087,198.00	5,952,346.07	
8-A. INCREASE IN RESERVES - LINE 7 COL (b) - LINE 7 COL (a) BUT NOT LESS THAN ZERO (Increase only)			1,865,148.09
8-B. DECREASE IN RESERVES - LINE 7 COL (A) - LINE 7 COL (b) BUT NOT LESS THAN ZERO (Decrease only)			
9. ADD: INCREASE/DECREASE ATTRIBUTABLE TO SEC 810(D) (FROM _____)			
10. INCREASE/~~DECREASE~~ IN RESERVES			1,865,148.09

REMARKS

Form 4390 (Rev. 1960)

POLICYHOLDERS SHARE OF INVESTMENT INCOME – COMPANY SHARE OF INVESTMENT YIELD

NAME: Standard Life & Accident Insurance Company

TAXABLE YEAR: 1958

PART I - POLICYHOLDERS SHARE OF INVESTMENT INCOME (Not Included in Computation of Gain or Loss from Operations)

	(a) RATE	(b) BEGINNING OF YEAR	(c) END OF YEAR	(d) MEAN	(e) REQUIRED INTEREST (Col. (d) times Col. (a))
1. SEC. 810(c)(1) LIFE RESERVES (Same as return)					120,714.00
2. SEC. 810(c)(2) PENSION PLAN RESERVES (Line 14(f), Form 4383) SCHEDULE _____.					
3. SEC. 810(c)(3) RESERVES (Line 12, Form 4389) SCHEDULE _____.					
4. SEC. 810(c)(4) RESERVES (Same as return)	3 1/2	260,195.00	422,318.00	341,257.00	11,944.00
5. SEC. 810(c)(5) RESERVES (Same as return)	3 1/2	193,339.00	206,712.00	200,025.50	6,713.00
6. REQUIRED INTEREST (Total of lines 1 through 5) (Same as return)					139,371.00
7. INVESTMENT YIELD (Line 22(d), Sheet 1 SCHEDULE _____.					277,997.00
8. POLICYHOLDERS SHARE (Line 6 divided by Line 7)					50.1340%
9. COMPANY SHARE OF INVESTMENT YIELD (Line 10, Less line 8)					49.8660%
10. TOTAL					100%

PART II - COMPANY SHARE OF INVESTMENT YIELD

	(a) TOTAL	(b) EXCLUSION (Col. (a) times Line 8)	(c) COMPANY SHARE (Col. (a) times Line 9)
11. INTEREST WHOLLY TAX-EXEMPT (Line 1(d), Sheet 1 SCHEDULE _____.	12,350.00	6,191.55	6,158.45
12. DIVIDENDS FROM DOMESTIC CORPORATIONS (Line 6(d), Sheet 1 SCHEDULE _____.	13,668.00	6,852.32	6,815.68
13. DIVIDENDS FROM CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES (Line 7(d), Sheet 1 SCHEDULE _____.	4,144.00	2,077.55	2066.45
14. DIVIDENDS FROM CERTAIN FOREIGN CORPORATIONS (Line 8(d), Form 4390) SCHEDULE _____.			
15. QUALIFYING DIVIDENDS - AFFILIATED GROUPS (Line 9(d), Form 4390) SCHEDULE _____.			
16. OTHER ITEMS OF INVESTMENT YIELD (Line 22(d), Sheet 1 Schedule _____ less Lines 11 through 15)	247,835.00	124,249.58	123,585.42
17. TOTAL	277,997.00	139,371.00	138,626.00

* FORM 4403
* (FEB. 1958)

LIFE INSURANCE COMPANY TAXABLE INCOME

NAME: Leonard Life & Accident Insurance Co. — TAXABLE YEAR: 1958

1. TAXABLE INVESTMENT INCOME AS CORRECTED (Line ~~Column~~ SCHEDULE ___)	95,703.15
2. GAIN FROM OPERATIONS (Line 25, Form 4101, If a loss, enter zero) SCHEDULE ___	466,947.87
3. THE SMALLER OF LINE (1) OR (2)	95,703.15
4. 50% OF THE EXCESS IF ANY OF LINE (2) OVER LINE (1)	185,622.36
5. AMOUNT SUBTRACTED FROM POLICYHOLDERS SURPLUS ACCOUNT (Line 15, Form 6402) SCHEDULE ___	-0-
6. LIFE INSURANCE COMPANY TAXABLE INCOME (Total Lines 3, 4, and 5)	281,325.51

18 Sheet 20

FORM 3350 Sheet 8 (Feb. 1962) TRANSLUCENT

U. S. TREASURY DEPARTMENT — INTERNAL REVENUE SERVICE

COMPUTATION OF INCOME TAX FOR YEAR 1958

18 OF 66 PAGES

NAME: Leonard Life & Accident Insurance Co. — SCHEDULE

CORRECTED LIFE INSURANCE COMPANY TAXABLE INCOME (From line 6, Form 4403)		281,325.51
TAX ON AMOUNT IN LINE 1	*TAX RATE USED 52% - 5,500	140,789.27
LESS: CREDIT FOR INCOME TAX PAID TO A FOREIGN COUNTRY OR U.S. POSSESSION (Sched. ___)		
CORRECTED INCOME TAX LIABILITY		140,789.27
INCOME TAX LIABILITY PER RETURN OR AS PREVIOUSLY ADJUSTED		114,814.34
[X] STATUTORY DEFICIENCY [ ] OVERASSESSMENT (difference between Lines 4 and 5)		25,974.93
PENALTIES OR ADDITIONS TO TAX (If any)		1,298.75
IF L... (1) IS NOT OVER $25,000. - 30%; OVER $25,000. - 52% REDUCED BY $5,500. - (Add 2% in each instance if a consolidated Return)		

REMARKS

Additions to Tax, Section 6653(a)

Income tax liability		$ 140,789.27
Income tax liability disclosed by returns	$ 6,734.70	
Additional assessment	108,079.64	114,814.34
Deficiency		$ 25,974.93
5% negligence penalty (5% of $25,974.93 plus $108,079.64)		$ 6,702.73
Amount previously assessed		5,403.98
Additional penalty due		$ 1,298.75

FORM 4337 (REV. JAN. 1959)

DEPARTMENT OF THE TREASURY - INTERNAL REVENUE SERVICE

POLICYHOLDERS SHARE OF INVESTMENT YIELD
(Not Includible in Taxable Investment Income)

SCHEDULE

NAME: Standard Life & Accident Insurance Co.

TAXABLE YEAR: 1959

PART I – EARNINGS RATES

	(a) MEAN OF ASSETS (Same as RAR, Sheet 2)	(b) INVESTMENT YIELD SCHEDULE (Sheet 5)	(c) EARNINGS RATE PERCENT (Column (b) divided by Column (a))
CURRENT YEAR (Page 3, Exhibit A)	10,608,830.00	297,498.03	2.80425
FIRST PRECEDING YEAR (Page 1, Exhibit A	7,827,580.00	277,997.00	3.55151
SECOND PRECEDING YEAR	5,525,659.00	179,526.00	3.24895
THIRD PRECEDING YEAR	3,162,648.00	107,602.00	3.40228
FOURTH PRECEDING YEAR	1,683,915.00	79,002.00	4.69157
TOTAL (Include only years the company was an insurance company)			17.698.56
AVERAGE EARNINGS RATE			3.53971

PART II – COMPUTATION OF ADJUSTED LIFE INSURANCE RESERVES

1. MEAN OF RESERVES (Same as return)		5,359,528.00
2. MULTIPLIED BY THAT PERCENTAGE WHICH EQUALS	100%	
3. INCREASED BY 10 TIMES THE AVERAGE RATE OF INTEREST ASSUMED. (Same as return)	32.4623 %	
4. SUB-TOTAL	132.4623 %	
5. REDUCED BY 10 TIMES THE ADJUSTED RESERVE RATE (Lesser of line 1 (c) or 7)	28.04425 %	
6. LINE 11 LESS LINE 12		104.4198 %
7. ADJUSTED LIFE INSURANCE RESERVES (Line 8 times line 13)		5,596,408.42

PART III – POLICYHOLDERS SHARE OF INVESTMENT YIELD

8. ADJUSTED LIFE INSURANCE RESERVES (From line 14 above)	5,596,408.42	
9. MULTIPLIED BY ADJUSTED RESERVE RATE (Lesser of line 1 (c) or line 7)	2.80425 %	156,937.28
10. PENSION PLAN RESERVES (Line 14(c), Form 4383) SCHEDULE		
11. MULTIPLIED BY CURRENT EARNINGS RATE (Line 1(c), above)	%	
12. INTEREST PAID (Same as return)		11,861.00
13. CORRECTED POLICY AND OTHER CONTRACT LIABILITY REQUIREMENTS (Total of lines 15, 18, and 19, above)		168,798.28
14. INVESTMENT YIELD (Line 23(d), Sheet 1)		297,498.03
15. POLICYHOLDERS SHARE (Line 20 divided by line 21)		56.7393 %

GPO 870-200

FORM 4387 (REV. 1-59) PAGE _____

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FORM 3350 Sheet 20 (REV. AUG. 1964)

TAXABLE INVESTMENT INCOME

NAME: Standard Life & Accident Insurance Co.

YEAR: 1959

1. POLICYHOLDERS' SHARE OF INVESTMENT YIELD - (Schedule _____)			56.7393
2. COMPANY'S SHARE OF INVESTMENT YIELD			43.2607
3. TOTAL			100%
	TOTAL (a)	EXCLUSION LINE (1) X COL. (a) (b)	COMPANY'S SHARE LINE (2) X COL. (a) (c)
4. INTEREST WHOLLY TAX-EXEMPT (Line 11(d), Schedule _____)	11,396.00	6,466.01	4,929.99
5. DIVIDENDS RECEIVED FROM DOMESTIC CORPORATIONS (Line 6(d), Schedule _____)	21,358.00	12,118.38	9,239.62
6. DIVIDENDS FROM CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES (Line 7(d), Schedule _____)	934.00	529.95	404.05
7. DIVIDENDS FROM CERTAIN FOREIGN CORPORATIONS (Line 8(d), Schedule _____)			
8. OTHER ITEMS OF INVESTMENT YIELD (Line 22(d), Schedule _____ less 4-7 above)	263,810.03	149,683.94	114,126.09
9. Net LONG-TERM CAPITAL GAIN (Line 18(e), Schedule _____)*			
10. TOTAL OF LINES 4 THROUGH 9	297,498.03	168,798.28	128,699.75
11. INTEREST WHOLLY TAX-EXEMPT (Line 4(c) above)			4,929.99
12. 85% OF DIVIDENDS ON LINE 5(a) ABOVE			7,853.68
13. 62.115% OF DIVIDENDS ON LINE 6(c) ABOVE			250.98
14. 85% OF DIVIDENDS ON LINE 7(c) AS LIMITED BY SECTION 245 (For computation, See Schedule _____)			
15. TOTAL OF LINES 12 THROUGH 14, BUT NOT TO EXCEED 85% OF TAXABLE INVESTMENT INCOME COMPUTED WITHOUT THIS DIVIDENDS RECEIVED DEDUCTION			8,104.66
16. SMALL BUSINESS DEDUCTION			25,000.00
17. TOTAL OF LINES 11, 15, AND 16			38,034.65
18. TAXABLE INVESTMENT INCOME (Line 10 less Line 17, but not less than zero)			90,665.10

* LINE 9 APPLICABLE ONLY TO YEARS BEGINNING AFTER DEC. 31, 1961

GPO 890-843

FORM 3350 Sheet 20 (REV. 8-64) Page _____

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(FEB. 1958) | COMPUTATION OF GAIN OR LOSS FROM OPERATIONS

NAME: Lincoln Life & Accident Insurance Co. | TAXABLE YEAR: 1959

INCOME	
1. COMPANY SHARE OF INVESTMENT YIELD (Line 17(c), Form 4390) SCHEDULE ____.	97,591.03
2. NET LONG TERM CAPITAL GAIN (Line 4, Form 4391) SCHEDULE ____.	
3. GROSS PREMIUMS LESS RETURN PREMIUMS (From Line 17, Sheet 21)	11,599,052.35
4. DECREASE IN SECTION 810(c) RESERVES, (Line 12, Form 4395) SCHEDULE ____.	
5. DECREASE IN SECTION 811 (b)(2) RESERVES (Line 11, Form 4399) SCHEDULE ____.	
6. OTHER AMOUNTS (Line ~~Disregarded~~) SCHEDULE 24(d), Sheet 9	539,972.00
7. TOTAL (Lines 1 through 6)	12,236,615.38
DEDUCTIONS	
8. DEATH BENEFITS (Same as RAR).	3,997,802.00
9. INCREASE IN SECTION 810(c) RESERVES (Line 10, Sheet 12)	2,067,572.74
10. CONSIDERATION PAID ON ASSUMPTION REINSURANCE	
11. INTEREST WHOLLY TAX-EXEMPT (Line 11(c), Form 4390) SCHEDULE ____.	3,738.33
12. INVESTMENT EXPENSES NOT DEDUCTED IN COMPUTING INVESTMENT YIELD (Line 8, Form 4382) SCHEDULE ____.	
13. SMALL BUSINESS DEDUCTION (not to exceed $25,000, limited for affiliated groups, 10% of line 23(d), Form 4560) SCHEDULE ____.	25,000.00
14. OTHER DEDUCTIONS (not deducted in computing investment yield) (~~Disregarded amounts~~) SCHEDULE ____. Lines 24, Col. (d), Sheet 9	4,574,532.11
15. TOTAL – (Lines 8 through 14)	10,668,645.18
DIVIDENDS RECEIVED DEDUCTION	
16. 85% OF DIVIDENDS ON LINE 12(c), FORM 4390, SCHEDULE ____. 5,955.32	
17. (115)% OF DIVIDENDS ON LINE 13(c), FORM 4390, SCHEDULE ____. 190.31	
18. 85% OF DIVIDENDS ON LINE 14(c), FORM 4390, SCHEDULE ____.	
19. 100% OF DIVIDENDS ON LINE 15, COL. (c), FORM 4390, SCHEDULE ____.	
20. TOTAL OF LINES 16 THROUGH 19 BUT NOT TO EXCEED 85% OF TAXABLE INCOME WITHOUT THIS DEDUCTION. (Limitation does not apply to amounts on Line 19 above.)	6,145.63
21. OPERATIONS LOSS DEDUCTION (Per return or Exhibit ____)	
22. TENTATIVE DEDUCTION (Line 15 plus lines 20 and 21)	10,674,790.81
23. SPECIAL DEDUCTIONS SECTION 809(d) (1), (5) AND (f) AS LIMITED (Line 21 Form 4600) SCHEDULE ____.	620,755.00
24. TOTAL DEDUCTIONS (Line 22 plus line 23)	11,295,545.81
25. GAIN (Loss) FROM OPERATIONS (difference between lines 7 and 24)	941,369.57

FORM 4401 (2-63)
PAGE ____

FORM 3350 Sheet 21 (Feb. 1962) TRANSLUCENT | U. S. TREASURY DEPARTMENT — INTERNAL REVENUE SERVICE

NET PREMIUMS
(GROSS PREMIUMS LESS RETURN PREMIUMS)

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NAME: Lincoln Life & Accident Insurance Co. | YEAR: 59 | SCHEDULE: t

ITEM	PER RAR	INCREASE	DECREASE	CORRECTED
1. LIFE	3,936,888.00			3,936,888.00
2. GROUP LIFE	1,449,514.00			1,449,514.00
3. GROUP ANNUITY				
4. GROUP ACCIDENT & HEALTH	2,339,504.00			2,339,504.00
5. CASUALTY				
6. INDIVIDUAL A & H	2,994,683.00	5,997.35		3,000,680.35
7. Supplementary Contracts	889,283.00			889,283.00
8. Advance premiums	1,781.00			1,781.00
9. Unallocated premium	(18,598.00)			(18,598.00)
10.				
11.				
12.	-0-			
13.				
14.				
15.				
16.				
17. TOTAL	11,593,055.00	5,997.35		11,599,052.35

REMARKS

It is determined that the reduction of $5,997.35 to premium income due to the decrease in premiums due and unpaid on the Chicago business from $5,997.35 at beginning of year to zero at end of year is eliminated.

FORM 3350 Sheet 21 (2-62) TRANSLUCENT

FORM 3350 Sheet 9 (Feb. 1962) TRANSLUCENT

U. S. TREASURY DEPARTMENT – INTERNAL REVENUE SERVICE

INVESTMENT EXPENSES

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Standard Life & Accident Insurance Co.

YEAR 1959

SCHEDULE

INVESTMENT EXPENSES NOT ALLOWED IN COMPUTING INVESTMENT YIELD ☑ OTHER DEDUCTIONS NOT ALLOWED IN COMPUTING INVESTMENT YIELD

OTHER AMOUNTS INCOME NOT INCLUDED IN COMPUTING INVESTMENT YIELD, AND NOT INCLUDED AS PREMIUMS, OR IN DECREASE IN RESERVES.

ITEM	(a) PAR	(b) INCREASE	(c) DECREASE	(d) CORRECTED
Commissions	2,280,974.00	53,675.87		2,334,649.87
Travel and Auto Expense	393,404.00	15,619.00		409,023.00
Postage, Express Tel. & Telegraph	47,520.00			47,520.00
Depreciation	46,490.00	4,075.00		50,565.00
Books and Periodicals	4,787.00			4,787.00
Agents' Balances Charged Off	-0-	86,689.00		86,689.00
Agents' Bonuses	33,287.00	5,252.00		38,539.00
Sundry General & Investment Expenses	220.00	900.00		1,120.00
Maintenance and Repairs	17,772.00			17,772.00
Amortization	16,669.00		16,469.00	200.00
	-0-	331.24		331.24
* Increase in Loading	-0-			-0-
Total of Deductions	1,573,404.00	** 9,932.00		1,583,336.00

* The deduction of 301,252. claimed on return for increase in loading is not an allowable deduction.

* Real Estate Expenses

TOTAL	4,414,527.00	176,474.11	16,469.00	4,574,532.11

FORM 3350 Sheet 9 (2-62) TRANSLUCENT

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FORM 3350 SHEET 12 (Feb 1962) TRANSLUCENT

U. S. TREASURY DEPARTMENT – INTERNAL REVENUE SERVICE

SECTION 810(c) RESERVES

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NAME Standard Life and Accident Insurance Co. | YEAR 1959 | ☐ DECREASE (Section 810(a)) | ☑ INCREASE (Section 810(b)) | SCHEDULE

	(a) RESERVE AT BEGINNING OF TAXABLE YEAR	(b) RESERVE AT END OF TAXABLE YEAR	
1. SEE 810(C) (1) RESERVES (Same as return)	4,435,290.00	6,283,760.00	
2. SEE 810(C) (2) RESERVES (FROM LINE 14, SHEET 13)	1,027,997.09	1,163,402.83	
3. SEE 810(C) (3) RESERVES (Same as RAR)	-0-	25,653.00	
4. SEE 810(C) (4) RESERVES (Same as return)	422,318.00	651,015.00	
5. SEE 810(C) (5) RESERVES (Same as RAR)	206,712.00	235,966.00	
6-A. REDUCTION FOR INVESTMENT YIELD (FROM _____)			
6-B. REDUCTION FOR REQUIRED INTEREST (Line 6, Form 4390)		199,907.00	
7. BALANCE (Total of lines 1-5 adjusted by line 6-A or 6-B)	6,092,317.09	8,159,889.83	
8-A. INCREASE IN RESERVES – LINE 7 COL (b) – LINE 7 COL (a) BUT NOT LESS THAN ZERO (Increase only)			2,067,572.74
8-B. DECREASE IN RESERVES – LINE 7 COL (A) – LINE 7 COL (b) BUT NOT LESS THAN ZERO (Decrease only)			
9. ADD: INCREASE/DECREASE ATTRIBUTABLE TO SEC 810(D) (FROM _____)			
10. INCREASE/DECREASE IN RESERVES			2,067,572.74

REMARKS

FORM 4390 (FEB. 1968)

U.S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

POLICYHOLDERS SHARE OF INVESTMENT INCOME – COMPANY SHARE OF INVESTMENT YIELD

SCHEDULE

NAME: Standard Life + Accident Insurance Company

TAXABLE YEAR: 1959

PART I - POLICYHOLDERS SHARE OF INVESTMENT INCOME (Not Included in Computation of Gain or Loss from Operations)

	(a) RATE	(b) BEGINNING OF YEAR	(c) END OF YEAR	(d) MEAN	(e) REQUIRED INTEREST (Col. (d) times Col. (a))
1. SEC. 810(C)(1) LIFE RESERVES (Same as return)					173,983.00
2. SEC. 810(C)(1) PENSION PLAN RESERVES (Line 14(f), Form 4383) SCHEDULE ____.					
3. SEC. 810(C)(3) RESERVES (Same as RAR)	-0-	-0-	25,653.00	12,826.00	-0-
4. SEC. 810(C)(4) RESERVES (Same as return)	3 1/2	422,318.00	651,015.00	536,667.00	18,783.00
5. SEC. 810(C)(5) RESERVES (Same as RAR)	3 1/2	206,712.00	235,966.00	221,339.00	7,141.00
6. REQUIRED INTEREST (Total of lines 1 through 5)					199,907.00
7. INVESTMENT YIELD (Line 22 (d), Sheet 1 Schedule) SCHEDULE ____					297,498.03
8. POLICYHOLDERS SHARE (Line 6 divided by Line 7)					67.1961 %
9. COMPANY SHARE OF INVESTMENT YIELD (Line 10, Less line 8)					32.8039 %
10. TOTAL					100%

PART II - COMPANY SHARE OF INVESTMENT YIELD

	(a) TOTAL	(b) EXCLUSION (Col. (a) times Line 8)	(c) COMPANY SHARE (Col. (a) times Line 9)
11. INTEREST WHOLLY TAX-EXEMPT (Line 1(d), Sheet 1 Schedule) SCHEDULE ____.	11,396.00	7,657.67	3,732.33
12. DIVIDENDS FROM DOMESTIC CORPORATIONS (Line 6(d), Sheet 1 Schedule) SCHEDULE ____.	21,358.00	14,351.74	7,006.26
13. DIVIDENDS FROM CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES (Line 7(d), Sheet 1 Schedule) SCHEDULE ____.	934.00	627.61	306.39
14. DIVIDENDS FROM CERTAIN FOREIGN CORPORATIONS (Line 8(d), Form 4360) SCHEDULE ____.			
15. QUALIFYING DIVIDENDS - AFFILIATED GROUPS (Line 9(d), Form 4360) SCHEDULE ____.			
16. OTHER ITEMS OF INVESTMENT YIELD (Line 22(d), Sheet 1 Schedule ____ less Lines 11 through 15)	263,810.03	177,269.78	86,540.25
17. TOTAL	297,498.03	199,907.00	97,591.03

FORM 4403 (FEB. 1958)

U. S. TREASURY DEPARTMENT – INTERNAL REVENUE SERVICE

LIFE INSURANCE COMPANY TAXABLE INCOME

SCHEDULE

NAME: Landcraft Life & Accident Insurance Co.

TAXABLE YEAR: 1959

1. TAXABLE INVESTMENT INCOME AS CORRECTED (Line 18, Sheet 20) SCHEDULE ____.	90,665.10
2. GAIN FROM OPERATIONS (Line 25, Form 4401, if a loss, enter zero) SCHEDULE ____.	941,369.57
3. THE SMALLER OF LINE (1) OR (2)	90,665.10
4. 50% OF THE EXCESS IF ANY OF LINE (2) OVER LINE (1)	425,352.24
5. AMOUNT SUBTRACTED FROM POLICYHOLDERS SURPLUS ACCOUNT (Line 16, Form 4402) SCHEDULE ____.	-0-
6. LIFE INSURANCE COMPANY TAXABLE INCOME (Total Lines 3, 4, and 5)	516,017.34

REMARKS

GPO : 1960 O - 559-376

FORM 4403 (2-60)

PAGE ____

FORM 3350 SHEET 17 (Feb 1962) TRANSLUCENT

U. S. TREASURY DEPARTMENT – INTERNAL REVENUE SERVICE

COMPUTATION OF INCOME TAX FOR YEAR 1959

SCHEDULE

NAME: Landcraft Life & Accident Insurance Co.

	*TAX RATE USED	
1. CORRECTED LIFE INSURANCE COMPANY TAXABLE INCOME (From line 6, Form 4403)		516,017.34
2. TAX ON AMOUNT IN LINE 1	52%-5,500	262,829.02
3. CAPITAL GAINS TAX: EXCESS OF LONG TERM CAPITAL GAIN OVER SHORT TERM CAPITAL LOSS	38,357.00	
4. TAX (25% x line 3)		9,589.25
5. INCREASE IN 1957 TAX PRIOR TO DEFERMENT (FROM)		-0-
6. TOTAL OF LINES 2, 4, AND 5		272,418.27
7. LESS – REDUCTION UNDER SEC. 802(a)(3) SHEET	-0-	
8. LESS – CREDIT FOR INCOME TAX PAID TO A FOREIGN COUNTRY OR U. S. POSSESSION (From exhibit)	-0-	-0-
9. CORRECTED INCOME TAX LIABILITY (Line 6 less line 8)		272,418.27
10. INCOME TAX LIABILITY PER RETURN OR AS PREVIOUSLY ADJUSTED		181,771.25
11. [X] STATUTORY DEFICIENCY [ ] OVERASSESSMENT (Difference between lines 9 and 10)		90,647.02
12. PENALTIES OR ADDITIONS TO TAX (If any)		4,532.35
13. DEFICIENCY TO BE ASSESSED (Aggregate of lines 11 and 12) (Computation of deficiency deferrable under 818(a)(3)) **		95,179.37

* LINE 1 IS NOT OVER $25,000-30%; OVER $25,000-52% REDUCED BY $5,500.– ADD 2% IN EACH INSTANCE IF A CONSOLIDATED RETURN

**COMPUTATION OF DEFICIENCY DEFERRABLE UNDER SECTION 818(a)(3)

14. INCREASE IN 1957 TAX PRIOR TO DEFERMENT AS CORRECTED (FROM LINE 6)	-0-
15. INCREASE IN 1957 TAX PRIOR TO DEFERMENT PER RETURN OR PRIOR RAR	-0-
16. DEFICIENCY PRIOR TO DEFERMENT (Payable in 10 installments beginning 3/15/60)	-0-

REMARKS Addition to Tax, Section 6653(a)

Income tax liability		$272,418.27
Income tax liability disclosed by return	$134,853.93	
Additional assessment	46,917.32	181,771.25
Deficiency		$ 90,647.02
5% negligence penalty (5% of $90,647.02 plus $46,917.32)		$ 6,878.22
Amount previously assessed		2,345.87
Additional penalty due		$ 4,532.35

GPO 1962 O-630534

FORM 3350 SHEET 17 (2-62) TRANSLUCENT

FORM 3350 Sheet 20 (REV. AUG. 1955)

TAXABLE INVESTMENT INCOME

NAME: Standard Life & Accident Insurance Company

YEAR: 1961

1. POLICYHOLDERS' SHARE OF INVESTMENT YIELD - (Schedule ____)			65.3233%
2. COMPANY'S SHARE OF INVESTMENT YIELD			34.6767%
3. TOTAL			100%
	TOTAL (a)	EXCLUSION LINE (1) X COL. (a) (b)	COMPANY'S SHARE LINE (2) X COL. (a) (c)
4. INTEREST WHOLLY TAX-EXEMPT (Line 1(d), Schedule ____)	8,429.00	5,506.10	2,922.90
5. DIVIDENDS RECEIVED FROM DOMESTIC CORPORATIONS (Line 6(d), Schedule ____)	4,129.00	2,697.20	1,431.80
6. DIVIDENDS FROM CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES (Line 7(d), Schedule ____)	200.00	130.65	69.35
7. DIVIDENDS FROM CERTAIN FOREIGN CORPORATIONS (Line 8(d), Schedule ____)			
8. OTHER ITEMS OF INVESTMENT YIELD (Line 22(d), Schedule ____ less 4-7 above)	560,897.90	366,397.08	194,500.82
9. NET LONG-TERM CAPITAL GAIN (Line 16(c), Schedule ____)*			
10. TOTAL OF LINES 4 THROUGH 9	573,655.90	374,731.03	198,924.87
11. INTEREST WHOLLY TAX-EXEMPT (Line 4(c) above)			2,922.90
12. 85% OF DIVIDENDS ON LINE 5(c) ABOVE			1,217.03
13. 62.115% OF DIVIDENDS ON LINE 6(c) ABOVE			43.08
14. 85% OF DIVIDENDS ON LINE 7(c) AS LIMITED BY SECTION 245 (For computation, See Schedule ____)			
15. TOTAL OF LINES 12 THROUGH 14, BUT NOT TO EXCEED 85% OF TAXABLE INVESTMENT INCOME COMPUTED WITHOUT THIS DIVIDENDS RECEIVED DEDUCTION			1,260.11
16. SMALL BUSINESS DEDUCTION			25,000.00
17. TOTAL OF LINES 11, 15, AND 16			29,183.01
18. TAXABLE INVESTMENT INCOME (Line 10 less Line 17, but not less than zero)			169,741.86

*LINE 9 APPLICABLE ONLY TO YEARS BEGINNING AFTER DEC. 31, 1961

GPO 830-003

FORM 3350 Sheet 20 (REV. 8-54) Page ____

(FEB. 1968)

COMPUTATION OF GAIN OR LOSS FROM OPERATIONS

NAME: Standard Life & Accident Insurance Co.

TAXABLE YEAR: 1961

INCOME

1. COMPANY SHARE OF INVESTMENT YIELD (Line 17(c), Form 1120) SCHEDULE ____.	210,005.68
2. NET LONG TERM CAPITAL GAIN (Line 4, Form 4381) SCHEDULE ____.	
3. GROSS PREMIUMS LESS RETURN PREMIUMS (From Line 17, Sheet 21)	14,620,156.00
4. DECREASE IN SECTION 810(c) RESERVES, (Line 12, Form 4395) SCHEDULE ____.	
5. DECREASE IN SECTION 811 (b)(2) RESERVES (Line 11, Form 4399) SCHEDULE ____.	
6. OTHER AMOUNTS (Line 24(d) Sheet 9 SCHEDULE ____.	1,395,406.93
7. TOTAL (Lines 1 through 6)	16,225,568.61

DEDUCTIONS

8. DEATH BENEFITS (Same as MAR)	5,505,295.00
9. INCREASE IN SECTION 810(c) RESERVES (Line 10, Sheet 12)	3,022,172.77
10. CONSIDERATION PAID ON ASSUMPTION REINSURANCE	
11. INTEREST WHOLLY TAX-EXEMPT (Line 11(c), Form 4390) SCHEDULE ____.	3,085.71
12. INVESTMENT EXPENSES NOT DEDUCTED IN COMPUTING INVESTMENT YIELD (Line 8, Form 4382) SCHEDULE ____.	
13. SMALL BUSINESS DEDUCTION (not to exceed $25,000, limited for affiliated groups, 10% of line 23(d), Form 4380) SCHEDULE ____.	25,000.00
14. OTHER DEDUCTIONS (not deducted in computing investment yield) SCHEDULE ____. Line 24, Col. (d), Sheet 9	5,311,729.25
15. TOTAL - (Lines 8 through 14)	13,867,282.73

DIVIDENDS RECEIVED DEDUCTION

16. 85% OF DIVIDENDS ON LINE 12(c), FORM 4390, SCHEDULE ____.	1,284.83	
17. 62.115% OF DIVIDENDS ON LINE 13(c), FORM 4390, SCHEDULE ____.	45.48	
18. 85% OF DIVIDENDS ON LINE 14(c), FORM 4390, SCHEDULE ____.		
19. 100% OF DIVIDENDS ON LINE 15, COL.(c), FORM 4390, SCHEDULE ____.		
20. TOTAL OF LINES 16 THROUGH 19 BUT NOT TO EXCEED 85% OF TAXABLE INCOME WITHOUT THIS DEDUCTION. (Limitation does not apply to amounts on Line 19 above.)		1,330.31
21. OPERATIONS LOSS DEDUCTION (Per return or Exhibit ____) .		
22. TENTATIVE DEDUCTION (Line 15 plus lines 20 and 21)		13,868,613.04
23. SPECIAL DEDUCTIONS SECTION 809(d) (3), (5) AND (6) AS LIMITED (Line 21 Form 4400) SCHEDULE ____.		983,824.00
24. TOTAL DEDUCTIONS (Line 22 plus line 23)		14,852,437.04
25. GAIN (Loss) FROM OPERATIONS (difference between lines 7 and 24)		1,373,131.57

GPO : 1968 O - 288-374

FORM 4401 (2-68)

PAGE ____

(Feb. 1952) TRANSLUCENT

U. S. TREASURY DEPARTMENT – INTERNAL REVENUE SERVICE

NET PREMIUMS
(GROSS PREMIUMS LESS RETURN PREMIUMS)

PAGE 56 OF 66 PAGES

NAME: Standard Life & Accident Insurance Co.

YEAR: 1961

SCHEDULE

ITEM	PER RAR	INCREASE	DECREASE	CORRECTED
1. LIFE	4,886,687.00		521,058.00	4,365,629.00
2. GROUP LIFE	1,614,136.00			1,614,136.00
3. GROUP ANNUITY				
4. GROUP ACCIDENT & HEALTH	4,795,637.00			4,795,637.00
5. (JALTY				
6. INDIVIDUAL A & H	3,487,677.00		748,272.00	2,739,405.00
7. Supplementary Contracts	1,108,292.00			1,108,292.00
8. Advance premiums	7,173.00			7,173.00
9. Deallocated premiums	(10,116.00)			(10,116.00)
10.				
11.				
12.				
13. (				
14.				
15.				
16.				
17. (TOTAL	15,889,486.00		1,269,330.00	14,620,156.00

REMARKS

FORM 3350 Sheet 9 (Feb. 1952) TRANSLUCENT

U. S. TREASURY DEPARTMENT – INTERNAL REVENUE SERVICE

INVESTMENT EXPENSES

PAGE 58 OF 66 PAGES

NAME: Standard Life & Accident Insurance Co.

YEAR: 1961

SCHEDULE

INVESTMENT EXPENSES NOT ALLOWED IN COMPUTING INVESTMENT YIELD ☑ OTHER DEDUCTIONS NOT ALLOWED IN COMPUTING INVESTMENT YIELD

OTHER AMOUNTS INCOME NOT INCLUDED IN COMPUTING INVESTMENT YIELD, AND NOT INCLUDED AS PREMIUMS, OR IN DECREASE IN RESERVES.

ITEM	(a) RAR	(b) INCREASE	(c) DECREASE	(d) CORRECTED
1. Commissions	2,449,433.00	327,860.01		2,777,293.01
2. Amortization	21,921.00		21,621.00	300.00
3. (	-0-	331.24		331.24
4. Interest	37,908.00	18,750.00		56,658.00
5. Salaries & wages	915,750.00			915,750.00
6. Other employee welfare	27,285.00			27,285.00
7. (Agent Welfare	47,228.00	13,910.00		61,138.00
8. Legal fees and Expenses	4,142.00			4,142.00
9. Travel	355,332.00	26,470.00		381,802.00
10. Postage, Telephone and Telegraph	54,877.00			54,877.00
11. (inting and tationery	74,675.00			74,675.00
12. Depreciation	61,858.00	2,673.00		64,531.00
13. Books and Periodicals	9,904.00			9,904.00
14. Miscellaneous Local	7,717.00			7,717.00
15. Agency Expense Allowances	-0-	86,885.00		86,885.00
16. Agents Balances Charged Off	-0-	59,001.00		59,001.00
17. Increase in Loading	* -0-			-0-
18.				
19. Balance of Deductions	729,440.00			729,440.00
20.				
21. The deductions of $72,139 claimed on return				
22. for increase in loading is not an				
23. allowable deduction.				
24. TOTAL	4,797,470.00	535,880.25	21,621.00	5,311,729.25

FORM 4390 (FED. 1963)

U.S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

POLICYHOLDERS SHARE OF INVESTMENT INCOME – COMPANY SHARE OF INVESTMENT YIELD

SCHEDULE

NAME: Standard Life + Accident Insurance Company

TAXABLE YEAR: 1961

PART I - POLICYHOLDERS SHARE OF INVESTMENT INCOME (Not Included in Computation of Gain or Loss from Operations)

	(a) RATE	(b) BEGINNING OF YEAR	(c) END OF YEAR	(d) MEAN	(e) REQUIRED INTEREST (Col. (d) times Col. (a))
1. SEC. 810(C)(1) LIFE RESERVES (Line 14(f), Sheet 3) SCHEDULE _____.					315,495.22
2. SEC. 810(C)(1) PENSION PLAN RESERVES (Line 14(f), Form 4333) SCHEDULE _____.					
3. SEC. 810(C)(3) RESERVES (Same as RAR)	-0-	10,300.00	20,609.00	15,454.00	-0-
4. SEC. 810(C)(4) RESERVES (Same as return)	3½	918,675.00	1,280,451.00	1,099,563.00	38,485.00
5. SEC. 810(C)(5) RESERVES (Same as RAR)		282,938.00	332,723.00	307,830.00	9,670.00
6. REQUIRED INTEREST (Total of lines 1 through 5)					363,650.22
7. INVESTMENT YIELD (Line 22(d), Sheet 1) SCHEDULE _____.					573,655.90
8. POLICYHOLDERS SHARE (Line 6 divided by Line 7)					63.3917 %
9. COMPANY SHARE OF INVESTMENT YIELD (Line 10, Less line 8)					36.6083 %
10. TOTAL					100%

PART II - COMPANY SHARE OF INVESTMENT YIELD

	(a) TOTAL	(b) EXCLUSION (Col. (a) times Line 8)	(c) COMPANY SHARE (Col. (a) times Line 9)
11. INTEREST WHOLLY TAX-EXEMPT (Line 1(d), Sheet 1) SCHEDULE _____.	8,429.00	5,343.29	3,085.71
12. DIVIDENDS FROM DOMESTIC CORPORATIONS (Line 6(d), Sheet 1) SCHEDULE _____.	4,129.00	2,617.44	1,511.56
13. DIVIDENDS FROM CERTAIN PREFERRED STOCK OF PUBLIC UTILITIES (Line 7(d), Sheet 1) SCHEDULE _____.	200.00	126.78	73.22
14. DIVIDENDS FROM CERTAIN FOREIGN CORPORATIONS (Line 8(d), Form 4330) SCHEDULE _____.			
15. QUALIFYING DIVIDENDS - AFFILIATED GROUPS (Line 9(d), Form 4380) SCHEDULE _____.			
16. OTHER ITEMS OF INVESTMENT YIELD (Line 22(d), Sheet 1, Schedule _____ less Lines 11 through 15)	560,897.90	355,562.71	205,335.19
17. TOTAL	573,655.90	363,650.22	210,005.68

-4-

FORM 4403 (FEB. 1959)	U. S. TREASURY DEPARTMENT – INTERNAL REVENUE SERVICE LIFE INSURANCE COMPANY TAXABLE INCOME	SCHEDULE
NAME Standard Life & Accident Insurance Co.		TAXABLE YEAR 1961
1. TAXABLE INVESTMENT INCOME AS CORRECTED (Line 18, Sheet 20) SCHEDULE ____		169,741.86
2. GAIN FROM OPERATIONS (Line 25, Form 4401, If a loss, enter zero) SCHEDULE ____		1,373,131.57
3. THE SMALLER OF LINE (1) OR (2)		169,741.86
4. 50% OF THE EXCESS IF ANY OF LINE (2) OVER LINE (1)		601,694.86
5. AMOUNT SUBTRACTED FROM POLICYHOLDERS SURPLUS ACCOUNT (Line 16, Form 4402) SCHEDULE ____		-0-
6. LIFE INSURANCE COMPANY TAXABLE INCOME (Total Lines 3, 4, and 5)		771,436.72

REMARKS

FORM 3350 Sheet 22 (Feb. 1962) TRANSLUCENT	U. S. TREASURY DEPARTMENT – INTERNAL REVENUE SERVICE COMPUTATION OF INCOME TAX FOR TAXABLE YEARS AFTER 1960	66 OF 66 PAGES
NAME Standard Life & Accident Insurance Co.	YEAR 1961	SCHEDULE
1. CORRECTED LIFE INSURANCE COMPANY TAXABLE INCOME (From Line 6, Form 4403)		771,436.72
2. TAX ON AMOUNT IN LINE 1	TAX RATE USED 52% – 5,500	395,647.09
3. EXCESS OF LONG TERM CAPITAL GAIN OVER CAPITAL LOSS (From Sheet 27)		
4. (25% of amount on line 3(a))		
5. TOTAL OF LINES 2 AND 4		395,647.09
6. LESS CREDIT FOR INCOME TAX PAID TO A FOREIGN COUNTRY OR U. S. POSSESSION (Form ____, Exhibit ____)		
7. CORRECTED INCOME TAX LIABILITY (Line 5 less line 6)		395,647.09
8. INCOME TAX LIABILITY PER RETURN OR AS PREVIOUSLY ADJUSTED		360,661.05
9. ☑ STATUTORY DEFICIENCY ☐ OVERASSESSMENT (Difference between line 7 and 8)		34,986.04
10. PENALTIES OR ADDITION TO TAX (If any)		

REMARKS

Addition to Tax, Section 6653(a)

Income tax liability		$395,647.09
Income tax liability disclosed by return	$ -0-	
Additional assessment	360,661.05	360,661.05
Deficiency		$ 34,986.04
5% negligence penalty (5% of $34,986.04 plus $360,661.05)		$ 19,782.35
Amount previously assessed		18,033 05
Additional penalty due		$ 1,749.30

FORM 3350 SHEET 19 (Feb 1962) TRANSLUCENT

U. S. TREASURY DEPARTMENT – INTERNAL REVENUE SERVICE

ASSETS

PAGE 1 OF 11 PAGES

NAME Standard Life & Accident Ins. Co. YEAR 1959 Exhibit A

	BEGINNING OF TAXABLE YEAR				END OF YEAR				
	(a) PER RETURN	ADJUSTMENTS (b) INCREASE	ADJUSTMENTS (c) DECREASE	(d) CORRECTED	(e) PER RETURN	ADJUSTMENT (f) INCREASE	ADJUSTMENT (g) DECREASE	(h) CORRECTED	(i) MEAN OF COL (D) AND COL (H)
1. REAL ESTATE	213,761			213,761	547,394		(d) 205,396	341,998	277,880
MORTGAGES 2-A. WITHOUT SERVICE FEES	919,616			919,616	1,389,945			1389,945	1,154,781
WITH SERVICE FEES	1,675,943			1,675,943	2,407,699			2,407,699	2,041,871
3. COLLATERAL LOANS									
4. POLICY LOANS (Incl. Premium notes)	79,083			79,083	121,104			121,104	100,093
5. CORPORATE BONDS	351,414			351,414	543,988			543,988	447,701
6. STOCKS	665,937	(a) 11,069		677,006	1,037,786	(e)	114,700	917,586	797,296
7. GOV'T OBLIGATIONS	305,374			305,374	367,776	f 6,758		374,034	339,704
8. BANK DEPOSITS	1,608,980			1,608,980	1,574,608			1,574,608	1,566,794
OTHER ASSETS 9. Accrued Investment Income	20,088			20,088	30,971			70971	75,529
10. Cash Due & Deferred	9,332	(b)		9,332	14,863			14,863	12,097
11. Agents' Balances		116,758		116,708		g 170,945		170,945	143,827
12. Deferred Premiums		(c) 739,760		739,460		(h) 1,100,654		1,100654	920,057
13.									
14.									
15.									
16.									
TOTAL	5,849,528	867,737		6,716,765	7,982,634	1,277,557	320,096	8,938,395	7,877,580

FORM 886-A (REV. MAY 1950) TRANSLUCENT	U.S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE EXPLANATION OF ITEMS	EXHIBIT A
NAME OF TAXPAYER Standard Life & Accident Ins. Co.		YEAR ENDED/PERIOD 12-31-58

(a)	Stocks, 1-1-58	$ 11,069.00
	To adjust the fair market value of stocks as used on the tax return, to the value as shown on the Annual Statement.	
(b)	Agents Balances, 1-1-58	$ 116,708.00 ✓
	To include agents balances in assets used in the computation of tax liability, under Code Section 805(b)(4).	
(c)	Deferred Premiums, 1-1-58	$ 739,460.00 ✓
	To include deferred premiums in assets used in the computation of tax liability, under Code Section 805(b)(4).	
(d)	Real Estate, 12-31-58	($ 205,396.00)
	To adjust the fair market value of real estate asof 12-31-58, as used on the tax return for computation of tax, to the fair market value reported on the annual statement asof 12-31-58, and to question the appraised value of real property located in Section 34, Pima County, Arizona.	
(e)	Stocks, 12-31-58	($ 114,700.00)
	To adjust the fair market value of stocks asof 12-31-58, as used on the tax return for purposes of computation of tax, to the fair market value reported on the annual statement.	
(f)	Government Obligations, 12-31-58	$ 6,258.00
	To adjust the asset government obligations as shown on the return for 12-31-58, to agree with the amount reported on the annual statement.	
(g)	Agents Balances, 12-31-58	$ 170,945.00 ✓
	To include agents balances in assets used for tax computation, under Code Sec. 805(b)(4).	
(h)	Deferred Premiums, 12-31-58	$ 1,100,654.00 ✓
	To include deferred premiums in assets used for tax computation under Code Sec. 805(b)(4).	

To litigate: ✓

FORM 3350 SHEET 3
(Feb 1952)
TRANSLUCENT

U. S. TREASURY DEPARTMENT – INTERNAL REVENUE SERVICE

ASSETS

PAGE 3 OF 11 PAGES

NAME Standard Life Insurance Co.

YEAR 1959

Exhibit A

	BEGINNING OF TAXABLE YEAR				END OF YEAR				
	(a) PER RETURN	ADJUSTMENTS (b) INCREASE	ADJUSTMENTS (c) DECREASE	(d) CORRECTED	(e) PER RETURN	ADJUSTMENT (f) INCREASE	ADJUSTMENT (g) DECREASE	(h) CORRECTED	(i) MEAN OF COL (D) AND COL (H)
1. REAL ESTATE	547,394		(a) 205,396	341,998	479,994	(h) 95,000		574.994	433,496
MORTGAGES 2-A. WITHOUT SERVICE FEES	1389.945			1,389,945	1,967,600			1,967,600	1,678,272
2. WITH SERVICE FEES	2,407,677			2,402,699	2,973,679			2,973.679	2,690689
3. COLLATERAL LOANS									
4. POLICY LOANS (Incl. Premium notes)	171,104			171,104	176,384			176384	148,744
5. CORPORATE BONDS	543,988			543,988	734,761			734,761	639,124
6. STOCKS	1,037,986		(b) 14,750	917,586	2,409,671			2,408671	1,663,128
7. GOV'T OBLIGATIONS	369,776	(c) 6,758		376,034	35,117	(g) 1,187		36,304	205,169
8. BANK DEPOSITS	1,524,608			1,524,608	1,588,507			1.588.507	1,556,557
OTHER ASSETS 9. Agency Investment Income	30,971			30,971	51.536			57 536	41,253
10. Real Est. Inv. Income	14863			14.863	20,082			20,082	17,477
11. Agents Ledger		(d) 170,945		170.945		(i) 215,306		215,306	193,125
12. Deferred Premiums	799,988	(e) 307,666		1,100,654	959,389	(j) 608,916		1,568,305	1,334479
13. Misc. Employees						(k) 15,634		15,634	9,317
14.									
15.									
16.									
TOTAL	8,773622	484869	320096	8,938395	11340220	939043		12,277263	10,608,830

FORM 886-A (REV. MAY 1950) TRANSLUCENT	U. S. TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE EXPLANATION OF ITEMS	EXHIBIT A
NAME OF TAXPAYER Standard Life & Accident Ins. Co.		YEAR ENDED/PERIOD 1959

(a)	Real Estate, 12-31-58	($ 205,396.00)
	To reduce real estate as shown on the tax return to the amount reflected on the annual statement.	
(b)	Stocks, 12-31-58	($ 114,700.00)
	To reduce the fair market value of stocks as shown on the return to the value shown on the annual statement.	
(c)	Government Obligations, 12-31-58	$ 6,258.00
	To increase the value of government obligations to the value shown on the annual statement.	
(d)	Agents Balances, 12-31-58	$ 170,945.00 ✓
	To include agents balances in assets used in the computation of tax liability, under Code Sec. 805(b)(4).	
(e)	Deferred Premiums, 12-31-58	$ 307,666.00 ✓
	To adjust deferred premiums to the gross amount reflected on the annual statement.	
(f)	Real Estate, 12-31-59	$ 95,000.00
	To increase the fair market value of real estate on the return to the amount reflected on the annual statement.	
(f)	Government Obligations 12-31-59	$ 1,187.00
	To increase the value of government obligations to the amount reflected on the annual statement.	
(h)	Agents Balances 12-31-59	$ 215,306.00 ✓
	To include agents balances in assets used for computation of tax liability, under Code Sec. 805(b)(4).	
(i)	Deferred Premiums 12-31-59	$ 608,916.00 ✓
	To increase the deferred premiums to the gross amount reflected on the annual statement.	
(j)	Miscellaneous Suspense 12-31-59	$ 18,634.00
	To include miscellaneous suspense items in assets used for computation of tax, under Code Sec. 805(b)(4).	

FORM 3350 SHEET 19 (Feb 1962) TRANSLUCENT

U. S. TREASURY DEPARTMENT – INTERNAL REVENUE SERVICE

ASSETS

PAGE 5 OF 11 PAGES

NAME Standard Life & Accident Ins. Co.

YEAR 1960

Exhibit A

	BEGINNING OF TAXABLE YEAR				END OF YEAR				
	(a) PER RETURN	ADJUSTMENTS (b) INCREASE	ADJUSTMENTS (c) DECREASE	(d) CORRECTED	(e) PER RETURN	ADJUSTMENT (f) INCREASE	ADJUSTMENT (g) DECREASE	(h) CORRECTED	(i) MEAN OF COL (D) AND COL (H)
1. REAL ESTATE	429,994	(a) 95,000		524,994	771,577		(f) 50,000	721,577	623,285
MORTGAGES 2-A. WITHOUT SERVICE FEES	1,962,600			1,962,600	4,287,346			4,287,346	3,124,973
WITH SERVICE FEES	2,973,679			2,973,679	2,486,922			2,486,922	2,730,300
3. COLLATERAL LOANS					185,681			185,681	92,840
4. POLICY LOANS (Incl. Premium notes)	176,384			176,384	364,386			364,386	270,385
5. CORPORATE BONDS	734,761			734,761	880,049			880,049	807,155
6. STOCKS	2,408,671			2,408,671	2,484,944			2,484,944	2,446,807
7. GOV'T OBLIGATIONS	35,117	(b) 1,187		36,304	530,711	(g) 2,140		532,851	284,580
8. BANK DEPOSITS	1,588,507			1,588,507	1,383,771			1,383,771	1,486,139
OTHER ASSETS 9. Accrued Investment Income	51,536			51,536	90,443			90,443	70,989
10. Cash Value Annuities	20,082			20,082					10,041
11. Agents Balances		(c) 215,306		215,306		(h) 379,381		379,381	297,343
12. Deferred Premiums	959,784	(d) 608,916		1,568,705	1,334,300	(i) 468,544		1,802,844	1,685,774
13. Misc. Suspenses		(e) 18,634		18,634					9,316
14.									
15.									
16.									
TOTAL	11,340,220	939,043		12,279,263	14,755,136	800,065	50,000	15,505,201	13,892,227

FORM 886-A (REV. MAY 1959) TRANSLUCENT

TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

EXPLANATION OF ITEMS

EXHIBIT

NAME OF TAXPAYER: Standard Life & Accident Ins. Co.

YEAR ENDED/PERIOD: 1960

(a)	Real Estate, 12-31-59	$ 95,000.00
	To increase the fair market value of real estate on the return to the amount reflected on the annual statement.	
(b)	Government Obligations, 12-31-59	$ 1,187.00
	To increase the value of government obligations to the amount reflected on the annual statement.	
(c)	Agents Balances, 12-31-59	$215,306.00 ✓
	To include agents balances in the assets used for computation of tax liability, under Code Sec. 805(b)(4).	
(d)	Deferred Premiums, 12-31-59	$608,916.00 ✓
	To increase the deferred premiums to the gross amount reflected on the annual statement.	
(e)	Miscellaneous Suspense, 12-31-59	$ 18,634.00
	To include miscellaneous suspense items in assets used for computation of tax, under Code Sec. 805(b)(4).	
(f)	Real Estate, 12-31-60	($ 50,000.00)
	Investment real estate is shown on the annual statement with a fair market value of $647,314.00. This amount has been adjusted to add the encumbrance shown on the W½, SE¼, Sec. 33 of $75,000.00, and to add the encumbrance shown on 224 - 226 N.W. 11th St., Okla. City of $44,263.01, because the fair market values shown apparently do not include these amounts, and since the taxpayer is willing to pay these additional amounts, the property is apparently worth the additional amounts. Further adjustment has been made to eliminate the fair market value shown on 1000 S. McKinley, Okla. City, because the taxpayer is not using this property as an investment asset, but rather this item appears to be a hidden dividend to the principal owner of the taxpayer, used to finance and operate a separate company, the Dan Cu Chemical Co.. The adjusted fair market value of investment real estate per the annual statement is $721,577.01, resulting in a decrease from the amount shown on the tax return of $50,000.	

U.S. GOVERNMENT PRINTING OFFICE : 1962 O - 630277

FORM 886-A (REV. 8-60) TRANSLUCENT

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TRANSLUCENT

EXPLANATION OF ITEMS

NAME OF TAXPAYER: Standard Life & Accident Ins. Co.

YEAR ENDED/PERIOD: 1960

(g)	Government Obligations, 12-31-60	$ 2,140.00
	To increase the value of government obligations to the amount reflected on the annual statement.	
(h)	Agents Balances, 12-31-60	$ 329,381.00 ✓
	To include Agents Balances, in the assets used for computation of tax liability, Under Code Sec. 805(b)(4).	
(i)	Deferred Premiums, 12-31-60	$ 468,544.00 ✓
	To increase deferred premiums to the gross amount reflected on the annual statement.	

U.S. GOVERNMENT PRINTING OFFICE : 1962 O - 630277

FORM 886-A (REV. 8-60) TRANSLUCENT

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FORM 3350 SHEET 19 (Feb 1962) TRANSLUCENT

U. S. TREASURY DEPARTMENT – INTERNAL REVENUE SERVICE

ASSETS

PAGE 8 OF 11 PAGES

NAME Standard Life & Accident Ins Co

YEAR 1961

Exhibit A

	BEGINNING OF TAXABLE YEAR				END OF YEAR				(i)
	(a) PER RETURN	ADJUSTMENTS (b) INCREASE	ADJUSTMENTS (c) DECREASE	(d) CORRECTED	(e) PER RETURN	ADJUSTMENT (f) INCREASE	ADJUSTMENT (g) DECREASE	(h) CORRECTED	MEAN OF COL (D) AND COL (H)
REAL ESTATE	771,577		(a) 50,000	721,577	1,055,994		(e) 205,000	850,994	786,285
MORTGAGES									
A. WITHOUT SERVICE FEES	4,782,346			4,782,346	6,259,341			6,259,341	5,520,844
WITH SERVICE FEES	2,486,922			2,486,922	3,983,993			3,983,993	3,235,458
COLLATERAL LOANS	185,681			185,681	298,268			298,268	241,974
POLICY LOANS (Incl. Premium notes)	364,386			364,386	563,756			563,756	464,071
CORPORATE BONDS	880,049			880,049	1,110,840			1,110,840	995,445
STOCKS	2,444,944			2,444,944	4,598,938			4,598,438	3,521,691
GOV'T OBLIGATIONS	530,717	(b) 2,140		532,857	9,095	(f) 2,356		11,451	272,154
BANK DEPOSITS	1,783,771			1,383,771	1,315,838			1,315,838	1,349,804
9. Accrued investment income	90,443			90,443	143,828			143,828	117,135
10. Agents Balances		(c) 379,381		379,381		(g) 409,003		409,003	394,192
11. Deferred & Uncollected Premiums	1,101,649	(d) 468,544		1,570,193	1,553,137	(h) 19,626		1,572,763	1,571,478
12. Loans to Purchase Stock						(i) 195,000		195,000	97,500
13. Due and Unpaid Premiums	232,651			232,651	980,241		(j) 748,272	231,969	232,310
14.									
15.									
16.									
TOTAL	14,755,136	850,065	50,000	15,505,201	21,871,769	625,985	953,272	21,545,482	18,525,341

FORM 3350 SHEET 19 (2-62) TRANSLUCENT

(REV. MAY 1960) TRANSLUCENT

DEPARTMENT OF THE TREASURY - INTERNAL REVENUE SERVICE

NAME OF TAXPAYER	EXHIBIT
Standard Life and Accident Insurance Co.	YEAR ENDED/PERIOD 1961

EXPLANATION OF ITEMS

) Real Estate, 12-31-60 ($ 50,000.00)

Investment real estate is shown on the annual statement with a fair market value of $647,314.00. This amount has been adjusted to add the encumbrance shown on the W½, SE¼, Sec. 33 in the amount of $75,000.00 and to add the encumbrance shown on 224,226 N. W. 14th St. Oklahoma City, in the ajount of $44,263.01 because the fair market values shown apparently do not include these amounts, and since the taxpayer is willing to pay these additional amounts, the property is apparently worth the additional amounts. Further, adjustment has been made to eliminate the fair market value of $45,000.00 shown on 1000 S. McKinley, Oklahoma City because the taxpayer is not using property as an investment asset, but rather this item was used by the principal owner of the taxpayer, to finance and operate a separate company, the Dan Cu Chemical Company. The adjusted fair market value of investment real estate per the annual statement is $721,577.01, whereas the amount show n on the return is $771,577, resulting in a decrease of $50,000.00.

(Government Obligations, 12-31-60 $ 2,140.00

To increase the value of government obligations shown on the return to the amortized value as shown on the annual statement.

) Agents Balances, 12-31-60 $ 329,381.00 ✓

To include agents balances in the assets used for computation of tax liability under Code section 803(b)(4).

) Deferred Premiums, 12-31-60 $ 468,544.00 ✓

To increase the deferred premiums to the gross amount indicated on the annual statement.

(REV. MAY 1960) TRANSLUCENT

NAME OF TAXPAYER	EXHIBIT
ndard Life & Accident Insurance Company	YEAR ENDED/PERIOD 1961

EXPLANATION OF ITEMS

) Real Estate, 12-31-61 ($205,000)

Investment real estate is shown on the annual statement with a fair market value of $855,054.52. This amount has been increased for encumbrances on the W½, SE¼, Sec. 33, in the amount of $50,000 and for encumbrances on 224-26, N.W. 14th Street, Oklahoma City, in the amount of $41,139.70 and for encumbrances on Lots 1 & 2, & E½, NW¼, Sec. 31 in the amount of $84,800 and has been reduced to eliminate he fair market value of $180,000 shown for 1000 South McKinley, klahoma City, because rather than investment real estate, this item was used by the taxpayer's principal owner to finance and operate a separate company, the Dan Cu Chemical Company. The corrected fair market value of investment real estate, based on the annual statement s $850,994.22, whereas the amount on the return is $1,055.994, resulting in a decrease in the amount of $205,000.

Government Obligations, 12-31-61 $ 2,356

To increase the value of government obligations shown on the return to the amortized value as shown on the annual statement.

Agents Balances, 12-31-61 $409,003 ✓

Agents balances as reflected on Exhibit 13, page 14, of the 1961 annual statement is $359,003.24. Investigation indicates that the taxpayer's principal owner borrowed $50,000 on 12-11-61, which was deposited to an account in the name of Owen Townsend, from which checks were issued to the taxpayer to purchase the accounts of eleven agents. The taxpayer stated that this was done for window dressing purposes. Agents balances as shown on the annual statement have been increased to include the $50,000 in question, and the corrected agents debit balances of $409,003 have been included in the assets used to compute tax liability under Code section 805(b)(4).

Deferred and Uncollected Premiums, 12-31-61 $19,626 ✓

Increased to include loading $540,684 ✓

Decreased to exclude premiums on the Chicago business 521,058

Net increase $ 19,626

BEST COPY AVAILABLE

FORM 886-A (REV. MAY 1960) TRANSLUCENT

TREASURY DEPARTMENT - INTERNAL REVENUE SERVICE

EXPLANATION OF ITEMS

EXHIBIT

NAME OF TAXPAYER: Standard Life & Accident Ins. Co.

YEAR ENDED/PERIOD: 1961

(i) Option to Purchase Stock $ 195,000.00

On 10-16-61, the taxpayer's principal owner borrowed $195,000. from the bank and used it to purchase an option to purchase stock of Insurers Business Corporation. This transaction was not reflected on the records furnished for examination. This adjustment is to include this item in assets used in the computation of tax liability, under Code Sec. 805(b)(4).

(j) Due and Unpaid Premiums, 12-31-61 ($748,272.00)

Decrease to exclude premiums on the Chicago business

SUPREME COURT OF THE UNITED STATES

No. 75-1771

COMMISSIONER OF INTERNAL REVENUE, PETITIONER

v.

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

ORDER ALLOWING CERTIORARI—Filed October 4, 1976

The petition herein for a writ of certiorari to the United States Court of Appeals for the Tenth Circuit is granted.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1976 224199 20

Supreme Court, U. S.
FILED
JUL 27 1976
MICHAEL RODAK, JR., CLERK

In the

Supreme Court of the United States

OCTOBER TERM, 1976

No. 75-1771

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

v.

STANDARD LIFE & ACCIDENT INSURANCE COMPANY,
Respondent.

REPLY BY RESPONDENT TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

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Dallas, Texas

In the

Supreme Court of the United States

OCTOBER TERM, 1976

No. 75-1771

COMMISSIONER OF INTERNAL REVENUE,

Petitioner,

v.

STANDARD LIFE & ACCIDENT INSURANCE COMPANY,

Respondent.

REPLY BY RESPONDENT TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

Respondent Standard Life & Accident Insurance Company submits this reply to the petition by the Solicitor General, on behalf of the Commissioner of Internal Revenue, for a writ of certiorari to review the judgment of the United States Court of Appeals for the Tenth Circuit in this case.

Respondent takes the position that a writ of certiorari should be granted in this case and that the decision of the Court of Appeals for the Tenth Circuit should be affirmed by this Court.

STATEMENT

Respondent is a life insurance company subject to federal income taxation under provisions of the Internal Revenue Code of 1954, as amended, that govern the

taxation of life insurance companies. These particular taxation provisions exist because of the need properly to determine the taxable income of a life insurance company resulting from its insurance premiums and investment income and the company's obligations to maintain insurance reserves required by state laws.

The issues presented in the Petition in this case concern the treatment for federal income tax purposes of unpaid premiums on insurance policies in force at the end of a life insurance company's tax year.[1] Such unpaid premiums arise when insurance premiums are paid in installments rather than fully at the commencement of the policy year and also when, at the end of the tax year, there are outstanding policies that have been extended under "grace period" provisions even though the premium for such period has not been paid.[2] With respect to all the unpaid premiums under discussion, there is no legal requirement that the policy holder or any person pay such premiums; if the premium is not paid, the only consequence is that the life insurance policy will lapse after a specified period.

The Court of Appeals for the Tenth Circuit held that respondent's unpaid premiums at the end of its 1958, 1959 and 1961 tax years were properly excluded from respondent's premium income for such years and were properly excluded from respondent's assets for

---

[1]Respondent does not necessarily agree with the petitioner's phrasing, at page 2 of the Petition, of the question presented in this case. Respondent believes that the primary question presented is what is the proper treatment of unpaid premiums in computing the federal income tax liabilities of life insurance companies and that a subsidiary question concerns the proper treatment of life insurance reserves for policies as to which there are unpaid premiums.

[2]Use of the term "unpaid premiums" for the premiums in question follows the terminology used by the Tenth Circuit in the opinion below. What are here termed "unpaid premiums" are termed "deferred and uncollected permiums" in the Petition (see Petition 4 at n.1).

purposes of computing federal income tax liability. The fundamental reason for such holding was that for each tax year in question respondent had not received unpaid premiums and had no right to receive such premiums. The Court of Appeals rejected the argument of petitioner that the treatment of reserves on policies with respect to which there were unpaid premiums required a contrary result. As to these reserves, the Court of Appeals noted that life insurance reserves are computed on the assumption that unpaid premiums will later be paid and such reserves are required by applicable state law (a fact that brings these reserves squarely within the definition of life insurance reserves in section 801(b) of the Internal Revenue Code); the court went on to hold that calculation of life insurance reserves for policies as to which there were unpaid premiums does not alter the fact that respondent had not received, and had no right to receive, such unpaid premiums at year end.

Respondent submits that the decision of the Court of Appeals for the Tenth Circuit on these issues is clearly correct.

However, respondent does agree with that portion of the Petition indicating that the question of the proper tax treatment of unpaid premiums is of great importance to the life insurance industry. This question arises with respect to virtually every mutual or stock life insurance company. From the enactment in 1959 of the basic tax provisions presently applicable to life insurance companies, the proper treatment of unpaid premiums has been an unsettled question with important impact on the tax liabilities of life insurance companies. Uncertainty as to tax treatment is particularly troublesome for life insurance companies in that it substantially impedes effective long-range financial planning. In respondent's view, the need to settle definitively this long-standing uncertainty justifies review by this Court of the Tenth Circuit's decision in this case.

Respondent also agrees with petitioner that review of this case is justified by the existence of a conflict between the decision below and decisions of other Courts of Appeals. Decisions by four other Courts of Appeals have dealt with questions of the inclusion of unpaid premiums in premium income and assets for purposes of computing tax liability — *Franklin Life Insurance Co. v. United States*, 399 F.2d 757 (7th Cir. 1968), cert. denied, 393 U.S. 1118 (1969); *Jefferson Standard Life Insurance Co. v. United States*, 408 F.2d 842 (4th Cir. 1969), cert. denied, 396 U.S. 828 (1969); *Western National Life Insurance Co. of Texas v. Commissioner*, 432 F.2d 298 (5th Cir. 1970); and *Western and Southern Life Insurance Co. v. Commissioner*, 460 F.2d 8 (6th Cir. 1972), cert. denied, 409 U.S. 1063 (1972). In each of these cases, the Court of Appeals has taken the position that all unpaid premiums should be included in premium income and assets. It should be noted that these decisions are focused primarily on a portion of unpaid premiums called "loading", which is that portion of unpaid premiums that is not required to cover the bare actuarial cost of insurance; however, in deciding that "loading" on unpaid premiums should be included in premium income and assets, the Courts of Appeals in these cases required inclusion of the entire amount of unpaid premiums in premium income and assets. The Tenth Circuit decision that no part of unpaid premiums is includible in premium income or assets is squarely in conflict with these earlier decisions.[3]

---

[3]In connection with this case, this Court should be aware of an additional line of cases in which Courts of Appeals have held that agents' commissions relating to unpaid premiums should be deducted in computing premium income (such agents' commissions are normally equal to a substantial part of "loading"). See Great Commonwealth Life Insurance Co. v. United States, 491 F.2d 109 (5th Cir. 1974); Federal Life Insurance Co. v. United States, 527 F.2d 1096 (7th Cir. 1975); and North American Life and Casualty Co. v. Commissioner, 533 F.2d 1046 (8th Cir. 1976).

Because of the importance to the life insurance industry and to federal tax administration of settling the issues presented in this case and because of fundamental conflicts between the decision below and the decisions of four other Courts of Appeals, respondent believes that this Court should grant a writ of certiorari to review the decision of the court below in this case.

CONCLUSION

For the reasons stated above, respondent asks that a writ of certiorari be granted in this case and that the decision of the Court of Appeals for the Tenth Circuit in this case be affirmed by this Court.

Respectfully submitted,

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July 1976.

Supreme Court, U. S.
FILED
JAN 12 1977
MICHAEL RODAK, JR., CLERK

No. 75-1771

In the Supreme Court of the United States

OCTOBER TERM, 1976

COMMISSIONER OF INTERNAL REVENUE, PETITIONER

v.

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

BRIEF FOR THE PETITIONER

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A life insurance company that includes the net valuation portion of its deferred and uncollected premiums in its "reserves" for federal tax purposes on the assumption that the gross annual premiums on its policies have been paid in full on the policy anniversary dates must consistently apply that assumption for all of its tax computations and include the full amount of its deferred and uncollected premiums in its "assets" and "gross amount of premiums"	20
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D. A life insurance company that includes the net valuation portion of deferred and uncollected premiums in "reserves" must include the gross amount of such premiums in its computation of "gross amount of premiums" under Section 809(c)(1)	51

226-549—77——1

Argument—Continued

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E. Alternatively, if deferred and uncollected premiums are not included in "assets" and "gross amount of premiums," the net valuation portion of those premiums must likewise be excluded from "reserves" ---- 54

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CITATIONS

Cases:

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In the Supreme Court of the United States

OCTOBER TERM, 1976

No. 75-1771

COMMISSIONER OF INTERNAL REVENUE, PETITIONER

v.

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

BRIEF FOR THE PETITIONER

OPINIONS BELOW

The memorandum opinion of the Tax Court (Pet. App. A 1a–8a) is not officially reported. The opinion of the court of appeals (Pet. App. B 9a–23a) is reported at 525 F. 2d 786.

JURISDICTION

The judgment of the court of appeals (Pet. App. C 24a–25a) was entered on November 6, 1975. The court of appeals denied a petition for rehearing with suggestion for rehearing *en banc* on January 9, 1976 (Pet. App. D 26a–27a). By orders dated March 30 and April 26, 1976, Mr. Justice White extended the

time for filing a petition for a writ of certiorari to and including June 6, 1976. The petition was filed on June 4, 1976, and was granted on October 4, 1976 (A. 142). The jurisdiction of this Court rests on 28 U.S.C. 1254(1).

QUESTION PRESENTED

Whether a life insurance company that reduces its federal tax liability by including in its "reserves" the amount of the net valuation portion of its deferred and uncollected premiums on the assumption that the full annual premiums on all of its outstanding policies have been paid on their anniversary dates, must apply the same assumption and likewise include the full amount of its deferred and uncollected premiums in its "assets" and "gross amount of premiums" under Sections 805(b)(4) and 809(c)(1) of the Internal Revenue Code of 1954, or else must exclude such premiums altogether in computing its "reserves," "assets" and "gross amount of premiums"; or whether, as the court of appeals held, it may exclude its deferred and uncollected premiums from "assets" and "gross amount of premiums" but nevertheless include the net valuation portion of such premiums in its reserves.

STATUTES AND REGULATIONS INVOLVED

The pertinent provisions of Sections 801, 802, 804, 805, 809, 810 and 818 of the Internal Revenue Code of 1954 as amended (26 U.S.C. (1958 ed., Supp. II)), and of Treasury Regulations on Income Tax, Sections 1.801–4, 1.805–5 and 1.809–4 (26 C.F.R.), set forth in the Appendix, *infra,* pp. 1A–23A.

STATEMENT

A. THE STATUTE

The Life Insurance Company Income Tax Act of 1959, as set forth in Sections 801–820 of the Internal Revenue Code of 1954, provides a three-phase procedure for the taxation of life insurance companies.[1] The primary categories of income subject to tax are "taxable investment income" (as defined in Section 804) and "gain from operations" (as defined in Section 809). "Taxable investment income" is, as the term implies, income from interest, dividends, and the like. "Gain from operations" is a broader category encompassing total net income from all sources, *i.e.,* investment income plus other income, principally underwriting income from premiums.

Pursuant to Section 802(b), the total tax base of a life insurance company to which the ordinary corporate rates are applied is the sum of the tax bases derived from computations under each of the three phases. The Phase I tax base (Section 802(b)(1)) is the smaller of "taxable investment income" or "gain from operations." The Phase II tax base is equal to 50 percent of the excess, if any, of the gain from operations over taxable investment income (Section 802(b)(2)). Finally, the portion of a company's "gain from opera-

[1] Section 4 of the Life Insurance Company Income Tax Act of 1959, 73 Stat. 141, makes the Act applicable to all taxable years beginning after December 31, 1957. Pursuant to Section 843 of the Code, life insurance companies are required to report their income on a calendar year basis.

tions" or underwriting income that is not taxed under Phase II becomes the Phase III tax base when such income is made available to shareholders (Section 815). See *United States* v. *Atlas Life Ins. Co.*, 381 U.S. 233, 235 n. 2.

For purposes of the Phase I and II tax bases, the determination of the total tax base involves a series of computations directed toward arriving at the fundamental categories of "taxable investment income" and "gain from operations."[2] The statute recognizes that life insurance companies are required to compute their projected future liabilities to their policyholders by establishing policyholder reserves to meet future claims and that the annual additions to those reserves should be free of tax. Section 801(b)(1) of the Code defines life insurance reserves and the statutory scheme provides a method for establishing the amount which, for tax purposes, is deemed to be added each year to these reserves.

Accordingly, the computations of both "taxable investment income" and "gain from operations" provide a mechanism for excluding from the total tax base those portions of investment and premium income that must be held to meet policyholder obligations. The payment of premiums necessarily results in

[2] There is a variation between the Phase I and II methods of computing the company's share of "investment income." Simply stated, the Phase I computation is based upon the company's actual earnings experience, while the Phase II computation permits the use of the company's assumed rate of interest.

the creation of a reserve liability reflecting amounts that the company must invest at an assumed rate of interest to meet future death claims. All other elements of the tax computation remaining constant, as the reserves and the amount of income necessary to cover the reserves increase, the federal tax base will correspondingly decrease.

(1) *Taxable Investment Income.*—With respect to determining "taxable investment income," the statutory computations are generally directed toward dividing the investment income for the taxable year on an item-by-item basis between a nontaxable "policyholders' share" deemed necessary for policyholder reserve obligations and a taxable "life insurance company's share." This is accomplished by dividing the company's "investment yield"[3] by the "assets" of the company[4] to derive the company's actual earnings rate. This rate, after adjustment,[5] is then multiplied

[3] Section 804(c) defines "investment yield" as "gross investment income," less specified deductions, including investment expenses, real estate expenses, and depreciation and trade and business expenses, subject to certain exceptions and limitations.

[4] Section 805(b)(4) defines "assets" as "all assets of the company * * * other than real and personal property (excluding money) used by it in carrying on an insurance trade or business." Thus, a building owned by the company to house its offices and its furniture and fixtures are excluded from the computation of its "assets."

[5] The adjusted earnings rate (which the statute calls the "adjusted reserves rate") equals the current earnings rate, or the average of the current earnings rate and the rates from the four years prior to the current year, whichever is lower. See Section 805(b)(1), (2) and (3).

by the company's adjusted life insurance reserves for policyholders.[6] The resulting product is the exclusion from the company's tax base for the amounts of investment income that are considered necessary for tax purposes to cover its life insurance reserves.

The foregoing computation may be expressed by the following formulae:

$$(1)\quad \frac{\text{Investment Yield}}{\text{Assets}} = \text{Earning Rate}$$

$$(2)\quad \text{Earning Rate} \times \text{Reserves} = \text{Tax Exclusion}$$

$$(3)\quad \frac{\text{Investment Yield}}{\text{Assets}} \times \text{Reserves} = \text{Tax Exclusion}$$

or

$$\text{Investment Yield} \times \frac{\text{Reserves}}{\text{Assets}} = \text{Tax Exclusion}$$

These formulae demonstrate that the proportion of the company's reserves to its total assets controls the fractional amount of the investment income that will be excluded from tax. Thus, as "reserves" increase in pro-

[6] Adjusted life insurance reserves are the company's life insurance reserves for policyholder obligations, adjusted for the difference between the assumed interest rate used by the company in computing the reserves and the actual earnings rate. The reserve is reduced by 10 percent for every 1 percent by which the applicable earnings rate exceeds the company's assumed rate. The resulting figure—the adjusted life insurance reserves—is then multiplied by the company's adjusted earnings rate. To the amount so calculated are added pension plan reserve requirements and interest paid during the taxable year, all of which are excluded from the copmany's tax base. See Sction 805; *United States* v. *Atlas Life Ins. Co.*, *supra*, 381 U.S. at 236 n. 4.

portion to the company's assets, the tax exclusion will likewise increase.

(2) *Gain from Operations.*—The company's "gain from operations" includes its income from all sources, less certain specified deductions. Since "gain from operations" includes the element of investment income, the computation of "gain from operations" is further directed toward taking into account income from other sources, principally underwriting income. Underwriting gains result when the premium charged for a policy exceeds the company's costs in providing the coverage. Thus, in addition to its share of investment income, the principal item in computing "gain from operations" is the "gross amount of premiums and other consideration * * * on insurance and annuity contracts * * *." (Sec. 809(c)(1)).

The specified deductions (Section 809(d)) include noninvestment expenses, such as underwriting expenses, salaries, general overhead, and claims paid. In accord with the congressional decision to exclude net additions to policyholder reserves from the tax base, Section 809(d)(2) generally permits a deduction for increases in reserves during the taxable year attributable to the premiums included in income under Section 809(c)(1). When the various deductions are subtracted from the company's gross income from all sources, the resulting figure is the "gain from operations."

Since "gross amount of premiums" is an income item in the above computation, increases in that element will result in a higher figure for "gain from op-

erations" and a larger tax base. Conversely, since the "net increase in reserves" is a deduction item, increments to that statutory element will decrease the tax base.

B. THE FACTS OF THIS CASE AND THE PROCEEDINGS BELOW

1. Respondent is an Oklahoma stock corporation engaged in the business of issuing insurance. During 1958–1961, it qualified for preferential federal tax treatment as a "life insurance company," as that term is defined by Section 801(a) of the Internal Revenue Code of 1954. As a life insurance company, respondent was subject to supervision and audit by the Oklahoma Insurance Commissioner and by officials of the other states in which it did business (Pet. App. A 2a–3a; Pet. App. B 10a).[7]

During the years in question respondent received income consisting of life insurance premiums and the return on the investment of those premiums and previously received premiums (Exs. A, B, and D, A. 23–24, 25, 33–34, 36, 45–46, 48). The "gross premium" is the amount actually charged the insured, and con-

[7] In order to facilitate the work of making these examinations, the National Association of Insurance Commissioners (NAIC) has divided the United States into various zones. Under this zone system, an examination is made every three years of each company whose operations extend beyond any one zone. The examinations are performed by a team of auditors from the insurance department of the company's domiciliary state and from each of the other zones in which the company does business. Where a company operates in more than one state but not in more than one zone, the outside auditors are chosen from one or more states in the zone. See Wightman, *Life Insurance Statements and Accounts* 31–32 (1952 ed.).

sists of the "net valuation premium" and "loading." The "net valuation premium" is the amount computed under applicable actuarial tables (based upon mortality and interest rate assumptions) that the company must accumulate in order to pay all death claims.[8] The net valuation premium reflects the amount, together with assumed interest, that respondent was required under local law to add each year to its policy reserves. "Loading" is the amount added to the "net valuation premium" for agents' commissions and other acquisition costs, management and operating expenses, profits and dividends. (Pet. App. B 10a).

Respondent's policyholders pay their premiums annually on the anniversary dates of their policies, or in semi-annual, quarterly, or monthly installments. When the policyholders elect to pay their premiums other than annually, respondent imposes a supplemental charge in addition to the annual premium

[8] On a level premium plan, the aggregate amount of the net valuation premiums on a block of policies will more than cover the assumed death claims during the initial years the policies are in effect. In practical terms, the total amount of the net valuation premiums on these policies will be greater during these early years than the amount of death claims made against the company. Conversely, during the later years when the age of the policyholders has increased, death claims will exceed the aggregate amount of the net valuation portion of the level premiums currently paid by the policyholders. The excess amounts received by the company in the early years, together with interest at an assumed rate, will enable the company to meet death claims during the later years. See McGill, *Life Insurance* 32–36, 218–219 (Rev. ed. 1967); MacLean, *Life Insurance* 13–17, 111–116 (9th ed. 1962).

(Stip. par 6, A. 16).[9] "Deferred premiums" are those portions of the gross annual premiums that become due after the end of each calendar year but before the next anniversary date of the policy. Respondent's life insurance policies provide for a grace period of 31 days or longer for the payment of premiums during which the policy is fully effective. "Due and unpaid premiums" or "uncollected premiums" are premiums that are due and payable before the end of the calendar year but which have not been paid (Pet. App. B 11a; Stip. pars. 6–8, A. 16–17).

The insured has no obligation to pay the deferred or due and unpaid premiums on his policy. However, the insurer has no obligation to continue the insurance coverage beyond the period for which premiums have been paid. Thus, non-payment causes the policy to lapse (Pet. App. B 11a).

2. Respondent computed its reserves on its policies on the assumption that the annual premiums had been paid in full as of the anniversary date of each policy, whether or not this was in fact the case. Accordingly, on its annual financial statements required to be filed under state law, respondent increased its reserves by the amount of the net valuation portion of both its fully paid and its deferred and uncollected premiums (Stip. par. 11, A. 17; Pet. App. A 3a; Pet. App. B 11a). Respondent reflected the resulting figure on its

[9] The increased annual premium charged to the policyholders electing installment payment of their premium serves to compensate the company for the interest it would have otherwise earned had the premium been paid in full on the anniversary date.

annual statements as its "Aggregate reserve for life policies and contracts" (Exs. E, F, H, A. 61, 76, 91).[10] On its annual statements, respondent offset the inclusion of the net valuation portion of its deferred and uncollected premiums in reserves by also including such amounts on the assets side of the balance sheet (Pet. App. A 4a; Exs. E, F, H, A. 60, 75, 90).[11]

Respondent likewise computed its reserves for federal income tax purposes on the basis of the same assumption that the annual premiums on all of its outstanding policies had been paid in full as of the

[10] The annual statement forms filed by respondent with the state authorities are designed by the National Association of Insurance Commissioners (NAIC) to promote uniform reporting requirements in the various states. As a result, they are often referred to as the "NAIC annual statement" (see Pet. App. A 4a and n. 3). These annual reports contain summary statements of the company's total assets and the total of its various reserves and other liability accounts established as of the end of each year. Examination of the company's annual report enables the various insurance commissioners in the states in which the company conducts business to measure the company's solvency and to determine whether it has sufficient assets on hand to cover its potential obligations to its policyholders (see Exs. E, F, H, A. 60–61, 75–76, 90–91).

[11] Respondent made a similar adjustment on the "Summary of Operations" schedule of its annual financial statement designed to offset the inclusion in its reserves of its deferred and uncollected premiums. In order to compensate for the deduction of the increase in reserves attributable to the deferred and uncollected premiums, it included the gross amount of such premiums in income and further deducted the increase in loading on such premiums as an expense. The net effect of these offsetting entries was to eliminate the impact of deferred and uncollected premiums on respondent's summary of operations (Pet. App. A 5a; Exs. E, F, H, A. 62, 77, 92). See pp. 33–37, n. 26, *infra*.

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anniversary dates of the policies. It therefore included the net valuation portion of its "deferred and uncollected premiums"[12] in its "life insurance reserves" under Section 801(b)(1) of the Internal Revenue Code of 1954. Respondent accordingly added these amounts of its reserves in making the federal tax computations under Sections 805 and 809 of the Code (Pet. App. A 3a; Pet. App. B 11a).

Although respondent assumed that the annual premiums had been paid in full on the anniversary dates of all of the policies for purposes of computing its reserves on its 1958, 1959, and 1961 tax returns, it did not consistently apply that assumption in making the other required computations on its returns for those years. In computing its "assets" under Section 805(b)(4) on its 1958 return, respondent excluded the entire amount of deferred and uncollected premiums on the converse assumption that it did not receive the deferred and uncollected premiums during the taxable year. On its 1959 and 1961 returns, respondent computed its "assets" under Section 805(b)(4) in accordance with a different assumption. For those years, it included in its assets only the net valuation portion of its deferred and uncollected premiums (*i.e.*, exclusive of loading). Similarly, in its Section 809(c)(1) computation of "gross amount of premiums" on its 1958, 1959, and 1961 returns, respondent included only the net valuation

[12] For purposes of convenience, we employ the conventional term "deferred and uncollected premiums" to include deferred premiums, and due and unpaid or uncollected premiums.

portion of its deferred and uncollected premiums.[13] (Pet. App. A 5a–6a; Pet. App. B 11a–12a).

Respondent's exclusions of its deferred and uncollected premiums from the computations of its "assets" and "gross amount of premiums," coupled with its inclusion of such premiums in its "reserves," had the effect of reducing its "taxable investment income" and its "gain from operations," and thus its tax.

3. On audit, the Commissioner of Internal Revenue accepted respondent's computation of its reserves based upon the assumption that the annual premiums had been paid in full on all policies in force. However, pursuant to Treasury Regulations, Sections 1.805–5(a)(4) and 1.809–4(a), the Commissioner applied this assumption as well to the other tax computations; he accordingly concluded that respondent was required to include the gross amount of its deferred and uncollected premiums in "assets" and in "gross amount of premiums" under Sections 805(b)(4) and 809(c)(1), respectively (Pet. App. B 12a). The Commissioner thereby determined deficiencies against respondent for 1958, 1959, and 1961, of $25,974.93, $90,647.02 and $34,986.04, respectively (Pet. App. A 1a).[14]

[13] The courts below characterized respondent as having claimed "deductions for the increases in loading" in computing its gains from operations under Section 809 (Pet. App. A 6a; Pet. App. B 12a). In fact, respondent actually included the gross amount of deferred and uncollected premiums in its "gross amount of premiums" but claimed a deduction for the loading portion of these premiums. The net effect was the same as if respondent included only the net valuation portion of its deferred and uncollected premiums in its "gross amount of premiums."

[14] The Commissioner's adjustments did not result in a deficiency for 1960 (A. 103).

The Commissioner also imposed a five percent penalty under

On the authority of its unanimous reviewed decision in *Bankers Union Life Insurance Co.* v. *Commissioner*, 62 T.C. 661, the Tax Court upheld the Commissioner's determination that the assumption that the annual premiums had been paid in full on all policies had to be consistently applied to all of the tax computations. It therefore held that respondent was required to include its deferred and uncollected premiums in "assets" under Section 805(b)(4) and in "gross amount of premiums" under Section 809(c)(1), without offset or deduction with respect to the loading portion of these premiums (Pet. App. A 7a–8a).

A divided court of appeals reversed (Pet. App. B 9a–23a). The court held that respondent was not required to include any portion of its deferred and uncollected premiums in "assets" and "gross amount of premiums," even though it included the net valuation portion of these premiums in its reserves for purposes of the Sections 805 and 809 computations. In so holding, the court accorded respondent the benefit of more favorable tax treatment than it claimed on its 1959 and 1961 returns, when it included the net valuation portions of the deferred and uncollected premiums in "assets" and in "gross amount of premiums" as well as in its "reserves" (Pet. App. B 11a–12a).

While the court acknowledged that four other courts of appeals had upheld the Commissioner's position

Section 6653(a) of the Code because of respondent's negligence or intentional disregard of the Regulations (Pet. App. A 1a; A. 103). The parties have stipulated that the five percent penalty would apply to any deficiency upheld in the ultimate disposition of the case (Stip. par. 22, A. 19).

(Pet. App. B 13a–14a), it stated that those decisions "are predicated on a fiction" (Pet. App. B 16a). It reasoned that respondent "has no legal, enforceable right to collect any unpaid premiums * * *" (Pet. App. B 18a), and that "it is * * * obvious that unpaid premiums are not 'assets used by a company in carrying on a trade or business' and that they cannot have any 'viable' asset basis until collected" (*ibid.*). The court likewise concluded that the "gross amount of premiums" under Section 809(c)(1) "cannot extend to unpaid premiums in which a taxpayer has no legally enforceable right" (Pet. App. B 21a). In so holding, the court invalidated the Treasury Regulations that mandated the Commissioner's consistent treatment of deferred and uncollected premiums in the computation of "reserves," "assets," and "gross amount of premiums" (Pet. App. B 16a–19a).

After observing that the issue "has been considered by four other Circuits, and in each instance * * * [those courts had] reached a conclusion contrary to the result reached by the majority * * *," the dissenting judge stated that he was "persuaded that the result reached by the Fourth, Fifth, Sixth, and Seventh Circuits is the proper one" (Pet. App. B 22a).[14a]

[14a] *Franklin Life Insurance Co.* v. *United States*, 399 F. 2d 757 (C.A. 7), certiorari denied, 393 U.S. 1118; *Jefferson Standard Life Insurance Co.* v. *United States*, 408 F. 2d 842 (C.A. 4) certiorari denied, 396 U.S. 828; *Western National Life Insurance Co. of Texas* v. *Commissioner*, 432 F. 2d 298 (C.A. 5); *Western and Southern Life Insurance Co.* v. *Commissioner*, 460 F. 2d 8 (C.A. 6), certiorari denied, 409 U.S. 1068.

SUMMARY OF ARGUMENT

I

The Life Insurance Company Income Tax Act of 1959 provides a three-phase procedure for the taxation of life insurance companies. The primary categories of income subject to tax are "taxable investment income" and "gain from operations." Pursuant to the statute, the computations of both "taxable investment income" and "gain from operations" provide a mechanism for excluding from the total tax base those portions of a company's investment and premium income that must be held to meet its policyholder obligations.

The three principal elements that enter into the federal income tax computations of a life insurance company are: (1) "reserves," (2) "assets," and (3) "gross amount of premiums." The computation of the tax-free portion of investment income generally involves multiplying the company's total investment income by the fraction $\frac{\text{Reserves}}{\text{Assets}}$. The computation of "gain from operations" is a more traditional net income calculation, with "gross amount of premiums" included as an income item and "reserves" subtracted as a deductible expense. Thus, all other elements of the tax computation remaining constant, as a life insurance company's "reserves" increase, its tax liability will correspondingly decrease. Conversely, as the company's "assets" and "gross amount of premiums" increase, its tax liability will also increase.

The question presented in this case involves the extent to which "deferred and uncollected premiums"

are taken into account in determining a life insurance company's "reserves," "assets," and "gross amount of premiums." Deferred and uncollected premiums are the sum of: (1) those portions of the gross annual premiums that become due after the end of the calendar year but before the next anniversary dates of the policies because of the policyholders' election to pay their annual premium in installments; and (2) the premiums that have become due and payable before the end of the year but that have not been paid. In both instances, it is undisputed that the company does not have deferred and uncollected premiums on hand as of the end of the calendar year and has no legal right to compel their payment. In the event of nonpayment, the policy lapses.

Following the longstanding accounting convention of the life insurance industry, respondent computed its year-end reserves for both financial reporting and federal tax purposes on the assumption that the full annual premium had been paid as of the anniversary dates of all of its policies in force. Insurance reserves arise upon the acceptance of a risk and the payment of premiums. Thus, respondent's premium receipt assumption resulted in an overstatement of its reserves by the net valuation portion of the deferred and uncollected premiums because it had not in fact received the full annual premiums and did not in fact have any liability to the policyholders with respect to these unpaid premiums. Respondent's increase in reserves based upon its assumption of full premium payment had the effect of decreasing its tax liability.

However, in computing its "assets" and "gross amount of premiums"—statutory elements that increase a life insurance company's tax liability—respondent abandoned the full premium payment assumption upon which it calculated its reserves. For those purposes, it included none of the deferred and uncollected premiums in "assets" for 1958, and only the lesser "net valuation" portion of those premiums in "assets" for 1959 and 1961 and "gross amount of premiums" for all those years.

Four courts of appeals have correctly held that a life insurance company cannot first treat its deferred and uncollected premiums as having been paid during the taxable year for purposes of increasing its "reserves" and thereby reducing its tax base; and then turn around and claim that it has not received the identical premiums for purposes of the "assets" and "gross amount of premiums" computations. The decision below improperly treats the deferred and uncollected premiums as both having been paid and having not been paid during the taxable year.

The integrity of the federal tax formulae, which rest upon the proportionate relationship between "reserves" and "assets," demands that all of its statutory elements be computed in accordance with a consistent set of assumptions. As the Fourth Circuit succinctly stated in *Jefferson Standard Life Insurance Co.* v. *United States,* 408 F. 2d 842, 856, certiorari denied, 396 U.S. 828: "Symmetry would require * * * that both sides of the equation by which taxable income is determined be treated alike. Thus, if taxpayer treats its reserve liabilities for tax purposes with a full

year's net valuation * * * it should be required to include gross annual premiums * * *" in its assets and premium income.

II

The pertinent Treasury Regulations (Sections 1.805–5(a)(4)(ii) and 1.809–4(a)(1)), which the court of appeals erroneously invalidated, likewise recognize the insurance industry's convention of overstating reserves by assuming full annual premium payment. They accordingly provide that a company must include the gross amount of deferred and uncollected premiums in "assets" and "gross amount of premiums" as long as it computes its reserves on the assumption that these premiums have been paid. If a life insurance company asumes that the deferred and uncollected premiums on all of its policies have been paid as of their anniversary dates and increases its reserves by the net valuation of such premiums, that assumption necessarily stands on the hypothesis that the company has received the full amount of those premiums.

Hence, our primary position is that gross deferred and uncollected premiums must be included in "assets" and "gross amount of premiums" if the net valuation portion of such premiums is to be included in "reserves." However, if the Court disagrees with our submission that the full amount of deferred and uncollected premiums be included in "assets" and "gross amount of premiums," the proper disposition of this case is to exclude such premiums altogether from the calculation of both (1) "reserves" and (2) "assets" and "gross amount of premiums," in accordance with Treasury Regulations, Section 1.801–4(f).

ARGUMENT

A LIFE INSURANCE COMPANY THAT INCLUDES THE NET VALUATION PORTION OF ITS DEFERRED AND UNCOLLECTED PREMIUMS IN ITS "RESERVES" FOR FEDERAL TAX PURPOSES ON THE ASSUMPTION THAT THE GROSS ANNUAL PREMIUMS ON ITS POLICIES HAVE BEEN PAID IN FULL ON THE POLICY ANNIVERSARY DATES MUST CONSISTENTLY APPLY THAT ASSUMPTION FOR ALL OF ITS TAX COMPUTATIONS AND INCLUDE THE FULL AMOUNT OF ITS DEFERRED AND UNCOLLECTED PREMIUMS IN ITS "ASSETS" AND "GROSS AMOUNT OF PREMIUMS"

A. INTRODUCTION

1. This case presents a question of major fiscal importance affecting the federal income taxation of every life insurance company. Life insurance companies generally permit their policyholders to pay their annual premium either in full on the anniversary date of the policy or in installments on a monthly, quarterly, or semi-annual basis. In the event the policyholder elects to pay the annual premium in installments, those portions of the gross annual premiums that become due after the end of the calendar year but before the next anniversary date of the policy are known as "deferred premiums." "Due and unpaid premiums" or "uncollected premiums" are premiums that are due and payable before the end of the calendar year but which have not been paid. These two types of premiums—described in the aggregate by the insurance literature as "deferred and uncollected premiums"—are a substantial element in the business of all life insurance companies. The issue here involves the proper federal

tax treatment of these deferred and uncollected premiums.

A life insurance company receives its income from the receipt of premiums and the investment of its assets. As we have pointed out *supra*, pp. 3–8, the Life Insurance Company Income Tax Act of 1959, set forth in Sections 801–820 of the Internal Revenue Code of 1954, provides a three-phase procedure for the taxation of both types of life insurance company income. The Act represented "a comprehensive overhaul of the laws relating to the taxation of life insurance companies." *United States* v. *Atlas Life Ins. Co., supra,* 381 U.S. at 235.

The basic thrust of the statute is to permit a life insurance company to exclude from its tax base that portion of its premium and investment income that is necessary to cover its reserve liabilities—the amount computed to be sufficient under the statute to pay future death claims. Thus, the cornerstone of the statutory system is the reserve which, as we shall explain *infra,* pp. 29–33, arises from the policyholders' payment of premiums.

Under the 1959 Act, a life insurance company is subject to tax on its "taxable investment income" plus one-half of the amount by which its total "gain from operations" exceeds its "taxable investment income." To the extent that it recognizes that amounts computed by life insurance companies as necessary to cover their reserves should be free of tax, the 1959 Act represents a continuation of the longstanding congressional policy to treat increments to the reserves

as representing amounts belonging to the policyholders rather than to the company. See *A Preliminary Statement of the Facts and Issues with Respect to the Federal Taxation of Life Insurance Companies,* Subcommittee on the Taxation of Life Insurance Companies, House Committee on Ways and Means, p. 21 (November 1954).

While Congress has always recognized that amounts that life insurance companies set aside to pay future death claims should be excluded from their tax base, it has employed various approaches in determining the measure of this tax exclusion. Thus, from 1913 to 1920, life insurance companies were taxed like all other corporations on their entire investment and premium income but were allowed a deduction for the "net addition required by law to be made within the taxable year to reserve funds."[15] In 1921, however, Congress abandoned this so-called "total income" approach and determined that life insurance companies would be taxed only on their "free investment income" not needed to cover policyholder obligations. During this period, premium income was totally excluded from the tax base. See Revenue Act of 1921, c. 136, Sections 242–247, 42 Stat. 227, 261–264. The concept that a tax should be levied on net investment income after an allowance to meet obligations to

[15] See, *e.g.*, Income Tax Act of 1913, c. 16, 38 Stat. 114, 166, 172, Sec. II(G)(b); Revenue Act of 1916, c. 463, 39 Stat. 756, 768, Sec. 12(a) Second; Revenue Act of 1918, c. 18, 40 Stat. 1057, 1079, Section 234(a)(10). See also Treasury Regulations No. 33 (Rev.), Art. 239, pars. 673–674 (1918); Treasury Regulations No. 45 (1920 ed.), Arts. 548, 549, 569.

policyholders was carried forward in subsequent acts and is also included in the broad revision of the 1959 Act.[16]

The 1959 Act introduced two fundamental changes in the taxation of life insurance companies. While it retained the concept of excluding from tax that portion of investment income necessary to cover policyholder reserves, the Act abandoned the assumed

[16] During the period 1921–1959, various formulae were used in computing the amount of the reserve exclusion. See *e.g.*, Revenue Act of 1924, c. 234, 43 Stat. 253, 289, Sec. 245(a); Revenue Act of 1926, c. 27, 44 Stat. 9, 47, Sec. 245(a); Revenue Act of 1928, c. 852, 45 Stat. 791, 842, Sec. 203(a); Revenue Act of 1932, c. 209, 47 Stat. 169, 224, Sec. 203(a); Revenue Act of 1934, c. 277, 48 Stat. 680, 732, Sec. 203(a); Revenue Act of 1936, c. 690, 49 Stat. 1648, 1710, Sec. 203(a); Revenue Act of 1938, c. 289, 52 Stat. 447, 523, Sec. 203(a); Internal Revenue Code of 1939, Sec. 203(a) (26 U.S.C. 203(a) (1952 ed.)).

Some of the formulae employed an industry-wide assumed rate of interest and resulted in the complete erosion of the tax base of life insurance companies. Thus, in 1947 and 1948, no life insurance company paid any federal taxes on profits from its life insurance business. See *A Preliminary Statement of the Facts and Issues with Respect to the Federal Taxation of Life Insurance Companies*, *supra*, at 16–17; Denney, Rua & Schoen, *Federal Income Taxation of Insurance Companies*, pp. 1.1–1.2 (2d ed. 1966). Between 1949 and 1958, Congress accordingly enacted a series of "stopgap" measures to provide a short-term remedy. See *Report on the Taxation of Life Insurance Companies*, Subcommittee on Internal Revenue Taxation, House Committee on Ways and Means, pp. 2–3 (December 31, 1958). See, *e.g.*, Revenue Act of 1950, c. 994, 64 Stat. 906, 961, Sec. 401(a); Revenue Act of 1951, c. 521, 65 Stat. 452, 507, Sec. 336; Life Insurance Company Tax Act of 1955, c. 83, 70 Stat. 36, 41, Sec. 804. Some of these "stopgap" measures were designed to impose a tax, at ordinary corporate rates, on a small fixed percentage of investment income. Others imposed a tax, at greatly reduced rates, on all investment income.

or industry-wide average rate of interest approach that had been employed in the allocation formulae under the prior law. Instead, the 1959 Act prescribed a method of allocating investment income based upon the company's actual earnings experience. See S. Rep. No. 291, 86th Cong., 1st Sess. 5 (1959); 105 Cong. Rec. 8428–8429 (1959) (remarks of Senator Curtis). The Act also expanded the companies' tax base to include underwriting gains, *i.e.*, the amount by which premiums exceeded the actual expenses and policy obligations. See H.R. Rep. No. 34, 86th Cong., 1st Sess. 2–3, 12–13 (1959); S. Rep. No. 291, *supra*, at 6–7. Specifically, the 1959 Act taxes one-half of the company's underwriting gains on a current basis and generally postpones taxation of the remaining half until such gains are distributed to shareholders. Thus, while the computations are more detailed, the basic approach of the 1959 Act was to return in part to the pre-1921 "total income" approach under which insurance companies were immediately taxed on their entire net investment and underwriting (premium) income.[17]

2. Three principal elements that enter into the fed-

[17] Accordingly, apart from the 1959 Act's postponement of tax on one-half of the underwriting gains, the approach of the 1959 Act and the pre-1921 law is essentially the same.

The pre-1921 law has been described as follows: "Although premiums were included as gross income, such part of each premium as was credited to the policyholder by way of a credit to a reserve was deducted; and * * * although all investment income was includible, that part which was, in effect, credited to policyholders as interest on the reserves was deducted." *A Preliminary Statement of the Facts and Issues with Respect to the Federal Taxation of Life Insurance Companies*, *supra*, at p. 14.

eral income tax computations of a life insurance company under the 1959 Act are: (1) "reserves," (2) "assets," and (3) "gross amount of premiums." As a life insurance company's "reserves" increase relative to its assets and premiums, its tax liability will correspondingly decrease. Conversely, as the company's "assets" and "gross amount of premiums" increase relative to its reserves, its tax liability will increase (see pp. 6–7, *supra*). These three elements, however, are not independent variables but are functionally interrelated. As premiums are paid, the company's "assets" and "gross amounts of premiums" necessarily increase and its "reserves" likewise increase (see pp. 30–31, *infra*).

The question here involves the extent to which deferred and uncollected premiums are taken into account for federal tax purposes in determining a life insurance company's "reserves," "assets," and "gross amount of premiums." It is undisputed that the company does not actually have such deferred and uncollected premiums on hand at the end of its taxable year and does not have any legal right to compel their payment from the insured.[18] Nonpayment relieves the company of its liability to pay death benefits and causes the policy to lapse.

Nevertheless, in computing its "reserves" on its tax returns for all three taxable years at issue, respondent made the traditional assumption of the life insurance

[18] Upon the lapse of the policy, state law requires the company to credit the cash surrender value to the account of the policyholder. The cash surrender value is calculated on the basis of premiums actually paid to the date of the lapse. See, *e.g.*, 36 Okla. Stat. Ann., Sec. 4029H (1958).

industry that the full annual premium had been paid on all its outstanding policies on their anniversary dates. It thereby increased its "reserves" for tax purposes by the "net valuation" portion of all annual premiums, including the deferred and uncollected premiums. Because increases in reserves reduce a life insurance company's "taxable investment income" and "gain from operations," respondent's increase in reserves based upon its assumption of full premium payment had the effect of decreasing its tax liability.

However, in computing its "assets" and "gross amount of premiums"—the related statutory elements that increase a life insurance company's tax liability—respondent did an about-face and abandoned the assumption upon which it calculated its reserves, *viz.*, that it received the full annual premium on all of its policies. For those purposes, it included no part of the deferred and uncollected premiums in "assets" for 1958 and only the "net valuation" portion of those premiums for 1959 and 1961. For 1958, 1959, and 1961, respondent included only the net valuation portion of its deferred and uncollected premiums in "gross amount of premiums" (see p. 13, n. 13, *supra*). Respondent's exclusion in 1958 of the full amount of deferred and uncollected premiums from "assets," its partial exclusion of such premiums from "gross amount of premiums" for that year, and its partial exclusion of such premiums from both "assets" and "gross amount of premiums" in 1959 and 1961 reduced respondent's tax liability for those years.

Our submission is that a life insurance company must adhere to a consistent set of assumptions in computing its federal tax liability. It cannot first treat its deferred and uncollected premiums as having been paid during the taxable year for purposes of increasing "reserves" and thereby reduce its tax base, and then turn around and assert that it has not received those premiums for purposes of computing its "assets" and "gross amount of premiums." The fundamental error of the court of appeals is that it simultaneously assumed that the deferred and uncollected premiums were both paid and not paid during the taxable year. Deferred and uncollected premiums are deemed either to have been paid for purposes of all of the prescribed computations or not to have been paid for any of the computations.

The pertinent Treasury Regulations, which have been upheld by four courts of appeals, rest upon this same requirement of consistency. Sections 1.805–5(a)(4)(ii) and 1.809–4(a) of the Regulations, Appendix, *infra,* pp. 20A–23A, respectively provide that a life insurance company must include its deferred and uncollected premiums in its "assets" and "gross amount of premiums" under Sections 805(a)(4) and 809(c)(1). However, in the event that it is determined that deferred and uncollected premiums are not properly includable in "assets" and "gross amount of premiums," Section 1.801–4(f) of the Regulations, Appendix, *infra,* pp. 19A–20A, alternatively requires the exclusion of such premiums in the computation of "reserves."

3. Viewed in the larger context, these Treasury Regulations are in accord with the "long-established

congressional policy that a taxpayer generally cannot compute income taxes by reporting annual income on a cash basis and deductions on an accrual basis" (*Commissioner* v. *South Texas Co.*, 333 U.S. 496, 501). As this Court there recognized (*ibid.*), "[s]uch a practice has been uniformly held inadmissible because it results in a distorted picture which makes a tax return fail truly to reflect net income." Thus, this Court has consistently rejected such hybrid methods of accounting, in which the taxpayer chooses the best of both worlds. See *Helvering* v. *Wilshire Oil Co.*, 308 U.S. 90, 96–99; *United States* v. *Catto*, 384 U.S. 102, 116–117. See also *W. L. Moody Cotton Co.* v. *Commissioner*, 143 F. 2d 712, 714 (C.A. 5).

Moreover, in *Mass. Mutual Life Ins. Co.* v. *United States*, 288 U.S. 269, the Court unanimously held that this principle of uniformity of accounting assumptions applied to the taxation of life insurance companies. There, the Court ruled that a life insurance company that filed its returns on the cash basis method of accounting could not claim a current deduction for unpaid interest owed to policyholders. In so holding, the Court stated—"It is settled beyond cavil that taxpayers other than insurance companies may not accrue receipts and treat expenditures on a cash basis, or vice versa. Nor may they accrue a portion of income and deal with the remainder on a cash basis, nor take deductions partly on one and partly on the other basis. Congress we think did not intend to make an exception of insurance companies" (*id.* at 273–274). See also *Continental Life Insurance Co.* v. *Commissioner*, 5 B.T.A. 407, 412.

The rule of uniformity and consistency announced in *Mass. Mutual Life Ins. Co.* applies with equal force to the deferred and uncollected premiums at issue in this case. Respondent cannot take those premiums into account in its "reserves" when it suits its purpose of reducing its tax base but turn its back on them when their inclusion in "assets" and "gross amount of premiums" would increase its tax liability. Simply stated, our position is that such premiums must be consistently deemed to have been paid for all purposes under the statute or not to have been paid for any purpose.

The concept of a life insurance reserve is fundamental to an understanding of the taxation of life insurance company income. Before discussing the impact of deferred and uncollected premiums on the federal tax computations, we believe it would be helpful to describe the nature and function of that reserve.

B. A LIFE INSURANCE RESERVE ARISES UPON THE COMPANY'S ASSUMPTION OF THE RISK AND THE POLICYHOLDER'S PAYMENT OF PREMIUMS

1. "Historically and commonly insurance involves risk-shifting and risk-distributing" (*Helvering* v. *LeGierse*, 312 U.S. 531, 539). The consideration paid by an insured for the assumption of the risk by an insurance company is the premium. The amount of the premium is calculated on the assumption that the premiums received by the company will be invested and earn interest which, when added to the accumulated premiums, will be sufficient to pay the policyholders' death claims as they arise. As the standard texts on life insurance make clear, a life insurance reserve is made up of the sum of net valuation premiums paid

to date, plus interest at the assumed rate, minus assumed death claims. See, *e.g.*, MacLean, *Life Insurance*, 90–116 (9th ed. 1962).[19]

In setting a life insurance premium, the company first chooses a mortality table and assumes an interest rate for the investment of the premiums. With these elements established, the net valuation premium can be calculated. Net valuation premiums, plus interest at the assumed rate, will be adequate to pay all claims on the assumption that deaths will occur according to the mortality table. The gross premium that is charged the policyholder is determined by adding to the net valuation premium an amount known in the aggregate as "loading," which covers the company's estimated expenses for agents' commissions and other overhead and profits.

The decisions of this Court likewise define a life insurance reserve for federal tax purposes as derived from the premiums paid by the policyholder. See, *e.g.*, *New York Life Ins. Co.* v. *Edwards*, 271 U.S. 109, 115, 119; *New York Life Ins. Co.* v. *Bowers*, 283 U.S. 242, 244; *Helvering* v. *Inter-Mountain Life Ins. Co.*, 294 U.S. 686, 690. Accord: *Williams* v. *Union Central Life Insurance Co.*, 291 U.S. 170, 177. As the Court more recently observed in *United States* v. *Atlas Life Ins. Co.*, 381 U.S. 233, 247, "[t]he receipt of premiums necessarily entails the creation of reserves and additions to reserves from investment income. Thus the insurance company is not only permitted to in-

[19] While other texts are cast in somewhat more technical terms, they are to the same effect on this basic point. See, *e.g.*, Huebner and Black, *Life Insurance* 277–279 (9th ed. 1976); Magee, *Life Insurance* 559–562 (3d ed. 1958); McGill, *Life Insurance* 182–185, 218–223 (Rev. ed. 1967).

vest, but it *must* invest; and it *must* return to the reserve a large portion of its investment income" (emphasis in original).[20]

There is accordingly a direct relationship between the payment of premiums by the policyholder and the company's establishment of reserves. Without the payment of premiums by the policyholder in exchange for the company's assumption of the risk, there is no occasion for the company to establish a reserve. As a leading text has succinctly stated, the reserve is "built up out of past premium payments and interest to meet * * * [future policy obligations] determined mathematically." Magee, *Life Insurance* 560 (3d ed. 1958).[21]

[20] While the reserves for most forms of life insurance are computed on the assumption of investment of the net valuation premiums, reserves for short-term casualty insurance are computed solely on the basis of the pro rata unearned gross premium without any investment element. See Treasury Regulations, Section 1.801–3(e). This latter type of reserve is involved in *United States* v. *Consumer Life Insurance Co.*, No. 75–1221; *First Railroad & Banking Co. of Georgia* v. *United States*, No. 75–1260; and *United States* v. *Penn Security Life Insurance Co.*, No. 75–1285, argued December 6, 1976.

[21] In stating that there is a direct relationship between the payment of premiums and the establishment of policy reserves, we assume that the premium charged by the company is sufficient to meet state statutory minimum reserve requirements. However, if competitive conditions cause the company to assume a risk and charge a gross premium that is less than the net valuation premium on the expectation that it will meet its policyholder obligations from sources other than premiums, the company is required to establish a supplemental reserve known as a "deficiency reserve." This deficiency reserve reflects the excess of the present value of required future net premiums over the present value of future actual premiums. See Huebner and Black, *Life Insurance* 289 (9th ed. 1976). However, Section 801(b)(4) of the Code excludes such deficiency reserves from the definition of "life insurance reserves."

Life insurance reserves are sometimes described as "funds" held for the benefit of policyholders. However, a life insurance company does not actually segregate or set aside any portion of its assets in a particular reserve fund. All of an insurance company's assets are subject to policy claims when they mature. Thus, the reserve is not an asset or a fund of any kind. It is simply a calculation of projected liabilities established as a measuring device in order to determine the assets that the company must maintain in order to meet its future commitments under the policies it has issued. Greider and Beadles, *Principles of Life Insurance* 68–69 (Rev. ed. 1972).

While the reserve is "represented by assets which the company invests * * * [it] is, in fact, a company liability." Magee, *supra*, at 560. If the net assets of the company fall below the reserves so computed, the company is deemed insolvent and may no longer engage in business.

Finally, a life insurance reserve may be defined either prospectively or retrospectively, yielding the same mathematical result. McGill, *Life Insurance* 219 (Rev. ed. 1967); Magee, *supra,* p. 560. When a policy is issued, the discounted or present value of the future benefits is exactly equal to the present value of all of the net valuation premiums to be paid. However, at any given time after the date of issue, the present value of the benefits to be paid under the policy will increase because the date of payment of the policy benefits has drawn closer. Viewed prospectively, the reserve is equal to the difference between the present value of the benefits and the present value of the future net premiums.[22] Viewed retrospectively, the reserve is equal to the amount of net valuation premiums, plus interest at the assumed rate, less assumed death claims. See MacLean, *Life Insurance* 111–115 (9th ed. 1962); Huebner and Black, *Life Insurance* 278–285 (9th ed. 1976). Thus, at any give time, the amount of a company's reserves can be expressed either in terms of the premiums it already has received or the premiums it expects to receive.

2. In view of the direct relationship between the policyholders' payment of premiums and the company's establishment of reserves, the treatment of deferred and uncollected premiums would seem to be a relatively simple matter. The policyholders have not paid such premiums and are not subject to any legal obligation to pay them. Moreover, the company has not assumed any liability for periods of unpaid coverage.[23] In the absence of payment, the policy lapses. Likewise, until premiums are paid, the com-

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[22] State statutes generally employ the prospective definition of a reserve. Thus, the Oklahoma Standard Valuation Law (36 Okla. Stat. Ann., Sec. 1510(E)(2) (1958)), to which respondent was subject, states—

"* * * Reserves for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor."

[23] If a policyholder dies during the 31-day grace period when the policy is still in force, the state statutes permit the company to deduct the uncollected premium from the policy proceeds. See, *e.g.*, 36 Okla. Stat. Ann., Sec. 4003 (1958). This withholding procedure enables the company to recover the unpaid premium.

pany will not be required to set aside any portion of such premiums for the payment of future benefits.

Logic would appear to dictate that deferred and uncollected premiums not be taken into account for any of the federal tax computations of "reserves," "assets," or "gross amount of premiums." But the inclusion of deferred and uncollected premiums for purposes of all of the computations of "reserves," "assets," and "gross amount of premiums," as provided by the primary position of the Treasury Regulations, is grounded upon its own internal logic. Moreover, it is traceable to the historical practice of the life insurance industry to include the net valuation portion of such premiums for financial reporting purposes when computing its reserves.

Pursuant to the practice adopted by the First Session of the National Insurance Convention in 1871,[24] life insurance companies have computed their aggregate reserves as stated on their financial statements on the assumption that the full annual premiums on all outstanding policies have been paid on the policy anniversary dates. See *Official Report of the Proceedings of the National Insurance Convention of the United States* 68–70 (1871). The 1871 Report acknowl-

[24] The National Insurance Convention is the predecessor organization of the National Association of Insurance Commissioners (NAIC). It is "a purely voluntary association without any legal status or authority. Because, however, every State Insurance Commissioner has recognized its value and has, at all times, given to it unstinted cooperation, the Association has, to a broad extent, been able to secure much uniformity in the regulation of insurance matters throughout the United States." Wightman, *Life Insurance Statements and Accounts* 27 (1952 ed.).

edged that this assumption results in an overstatement of the company's reserves to the extent of the net valuation portion of the deferred and uncollected premiums. The Report submitted to the Convention therefore recognized that "it is very clear that * * * [the company] should have a corresponding credit given for the portion of the premium remaining unpaid" (*id.* at 69).

The Report first considered the practicability of "taking the whole item of 'deferred premiums' out of the list of 'assets' and correspondingly reducing the policy liability [*i.e.*, the reserve]" (*ibid.*). After concluding that the actuarial work involved in such a method would be burdensome, the Convention's Report prescribed "a substitute bringing us to substantially the same result," *viz.*, creating a "deferred premiums" asset "to the same extent as that liability [reserve] has been thereby increased, but no farther" (*ibid.*). However, the Report further explained that the proper amount of the credit to the asset account was not the entire amount of the deferred premium, but the deferred premium offset by the loading element, *i.e.*, the net valuation portion of the premium.[25]

The Report made it clear that the "deferred premium" asset had no intrinsic value as an asset; it

[25] The Insurance Convention adopted the assumption of full premium payment in order to avoid the burdensome actuarial work involved in computing the total reserves on a policy-by-policy basis by taking into account only premiums actually paid. Since the annual premiums on most policies were paid in full at the time, it was easier to adopt the assumption of full premium payment for all policies and to correct the resulting overstatement of reserves by the creation of an offsetting asset.

was included on the company's statement "for the sole purpose of cancelling an equal amount of the liability [reserve] with which the company is charged in the policy valuation [reserve computation]" (*id.* at 70). By creating a "quasi-asset" (*ibid.*) consisting of the net deferred and uncollected premiums to offset the overstatement of the reserves, the solution devised by the Convention balanced the company's annual statement. It further r[illegible] the company of the necessity of covering the o[illegible]ent of its reserves with actual assets, and [illegible] avoided impairment of the comany's surplus.

This financial reporting method for deferred and uncollected premiums developed more than a century ago by the National Insurance Convention is still employed today. Thus, on its annual statements, respondent computed its reserves on the majority of its policies on the assumption that the annual premiums were paid in full as of the policies' anniversary dates, even though this was not in fact the case (Pet. App. B 11a). (See also Pet. App. A 3a; Stip. par. 11, A 17.) Respondent offset the resulting overstatement of its reserves by entering the same amount (th[illegible] net valuation portion of the deferred and unco[illegible]ected premiums) in an asset account entitled "Life insurance premiums and annuity considerations deferred and uncollected" (Exs. E, F, H, A. 60, 75, 90).[26]

[26] Respondent made a similar adjustment on the "Summary of Operations" part of its annual financial statements designed to offset the overstatement of its reserves by the net valuation portion of its deferred and uncollected premiums. It included the gross deferred and uncollected premiums as part of its "Premiums and Annuity Considerations" and offset the remaining loading element by a deduction for "Increase in loading on and cost of collection in excess of loading on deferred and uncollected premiums" (see Pet. App. A 5a; Exs. E, F, H, A. 62, 77, 92).

But this accounting treatment is nothing more than a device to permit the assumption of full premium payment and the concomitant overstatement of reserves without distorting the picture of the company's solvency projected by the annual financial report. As one authoritative insurance text states, "In order to offset the overstatement of the aggregate reserves because of the failure of the assumption upon which they were computed to conform with the actual facts in all cases, a company was and is still permitted to include in its assets the entire amount of all * * * [deferred and uncollected] net premiums computed as of the year-end. Obviously this is merely a corrective adjustment of the assets to offset an overstatement of the liabilities." Wightman, *Life Insurance Statements and Accounts* 43–44 (1952 ed.).[27] See also *id.* at 155, 545; MacLean, *supra,* at 318–319; Ernst & Ernst, *GAAP* [Generally Accepted Accounting Principles]-*Stock Life Companies* 449–450 (1974); Beardsley, *Life Company Annual Statement Handbook* III–15 (1962).

3. The history of the life insurance industry's financial reporting treatment of deferred and uncollected

[27] Wightman characterizes the device of overstating reserves and assets in equal amounts as "unnecessarily clumsy." In his view, a much simpler method would be to deduct the overstatement of the reserves from the aggregate reserves before entering the reserve liability on the annual statement. See Wightman, *supra,* at 45–46.

premiums shows that the inclusion of the net valuation portion of deferred and uncollected premiums in reserves does not reflect an actual liability of the company but is in fact an overstatement that must be offset by an artificial asset. As a matter of absolute logic deferred and uncollected premiums should therefore be excluded altogether from the federal tax computations of "assets," "gross amount of premiums," and "reserves." That is the alternative approach prescribed by Section 1.801–4(f) of the Treasury Regulations.

However, the primary portion of the Regulations does not require total exclusion of the deferred and uncollected premiums. Instead, it prescribes the inclusion of the gross amount of deferred and uncollected premiums in "assets" and "gross amount of premiums." In so providing, Sections 1.805–5(a)(4) and 1.809–4(a)(1) of the Regulations accept the industry's convention of overstating the reserves by the amount of the net valuation portion of the deferred and uncollected premiums. But since that overstatement rests upon the assumption that all premiums are paid as of the anniversary dates of the policies in force, the full amount of the deferred and uncollected premiums must likewise be included in "assets" and "gross amount of premiums" by virtue of the selfsame assumption. We turn now to a detailed analysis of the impact of deferred and uncollected premiums upon the prescribed federal tax computations of "assets" and "gross amount of premiums."

C. A LIFE INSURANCE COMPANY THAT INCREASES ITS "RESERVES" BY THE NET VALUATION PORTION OF ITS DEFERRED AND UNCOLLECTED PREMIUMS MUST INCLUDE THE GROSS AMOUNT OF SUCH PREMIUMS IN ITS COMPUTATION OF "ASSETS" UNDER SECTION 805(b)(4)

1. As we have described *supra,* pp. 5–7, the Phase I computation of a life insurance company's taxable investment income involves a division of the company's investment income into two parts—the tax-free policyholders' share and the taxable company's share. See *United States* v. *Atlas Life Ins. Co., supra,* 381 U.S. at 236–237. The Act accomplishes this allocation by dividing the company's "investment yield" (Section 804(c)) by its total "assets" (Section 805(b)(4)) to derive the company's actual earnings rate. This rate, after adjustment,[28] is then multiplied by the company's adjusted life insurance reserves.[29] The resulting figure is the "policy and other contract liability requirements" (Sections 804(a)(1) and 805(a)), the term employed by the Act to describe the total amount of

[28] Section 805(b) provides that adjusted earnings rate (called the "adjusted reserves rate") is the lower of the current earnings rate or the average of the current earnings rate and those for the preceding four years (see p. 5, n. 5, *supra*).

[29] Pursuant to Section 805(c)(1), the reserves are adjusted under the "Menge Formula," named after its principal industry proponent. This formula provides that the company's reserves will be reduced 10 percent for each percentage point that its "adjusted reserves rate" exceeds the assumed rate of interest used by the company in setting up and calculating its reserve. Conversely, if the company's assumed rate of interest exceeds its adjusted earnings rate, the company's reserve will be increased 10 percent for each percentage point of the excess. See H.R. Rep. No. 34, *supra,* at 11; S. Rep. No. 291, *supra,* at 15–16. See also McGill, *supra,* at 915–916.

investment income that is excluded from the company's tax base.[30]

The statutory Phase I computation can be expressed by the following formulae:

$$(1)\quad \frac{\text{Investment Yield}}{\text{Assets}} = \text{Earnings Rate}$$
(Section 805(b))

$$(2)\quad \text{Earnings Rate} \times \text{Reserves} = \text{Tax Exclusion}$$
(Section 805(a))

$$(3)\quad \frac{\text{Investment Yield}}{\text{Assets}} \times \text{Reserves} = \text{Tax Exclusion}$$
(Section 805 (a) and (b))

or

$$\text{Investment Yield} \times \frac{\text{Reserves}}{\text{Assets}} = \text{Tax Exclusion}$$

Thus, the computation of a life insurance company's taxable investment income depends upon the proportionate relationship between assets and reserves. The Act therefore "allocates investment income between [the company's] life insurance reserves and [the company's] surplus, according to the total amount of each." H.R. Rep. No. 34, *supra,* at 10. As the foregoing

[30] The statutory exclusion for "policy and other contract liability requirements" also includes amounts necessary to meet the company's pension plan reserves and to cover interest paid. See Section 805(a). The amount of the exclusion is then determined on an item-by-item basis by multiplying each item of investment income, including tax-exempt interest, by a fraction equal to the total exclusion divided by total investment yield. See Section 804 (a)(1); *United States* v. *Atlas Life Ins. Co.*, *supra*, 381, U.S. at 249.

formulae demonstrate, the company's tax exclusion is directly proportional to its "reserves" and inversely proportional to its "assets."

2. If a company makes the traditional assumption of the life insurance industry that the full premiums on all of its outstanding policies have been paid and computes its reserves—the numerator of the fraction—for purposes of the formula on the basis of that assumption, it would seriously distort the formula if it did not make the identical assumption in computing its assets—the denominator of the same fraction. Like all mathematical formulae, the Phase I computation can only produce an accurate result if each of its elements is computed in accordance with a consistent set of assumptions.

It is therefore hardly surprising that four courts of appeals have rejected the mathematical imbalance approved by the decision below. Those courts have uniformly held that if a life insurance company assumes that its premiums are fully paid and thereby overstates its reserves in its Phase I tax computations, it must likewise assume that the premiums are part of its "assets" in that computation. As the Seventh Circuit first stated in *Franklin Life Insurance Co.* v. *United States,* 399 F. 2d 757, 761 (C.A. 7), certiorari denied, 393 U.S. 1118, the inclusion of deferred and uncollected premiums in "reserves" but not in "assets" "would attribute to Congress an intention that in the same statutory equations, exclusions and deductions attributable to reserves are to be based on the assumption that the annual premium is fully paid up

and yet the amounts in the same equation from which these figures are to be subtracted are to be determined on the assumption that the annual premium is not fully paid up. * * * We perceive nothing from which intent to impose such a dual standard of tax accounting can be presumed." Accord: *Jefferson Standard Life Insurance Co.* v. *United States*, 408 F. 2d 842, 854–856 (C.A. 4), certiorari denied, 396 U.S. 828; *Western National Life Insurance Co. of Texas* v. *Commissioner*, 432 F. 2d 298, 301–302 (C.A. 5); *Western and Southern Life Insurance Co.* v. *Commissioner*, 460 F. 2d 8, 10–14 (C.A. 6), certiorari denied, 409 U.S. 1063. See also *Bankers Union Life Insurance Co.* v. *Commissioner*, 62 T.C. 661; *United Life and Accident Insurance Co.* v. *United States*, 329 F. Supp. 765 (D. N.H.); *Union Mutual Life Insurance Co.* v. *United States*, No. 74–112 S.D., decided September 14, 1976 (D. Me.) (38 A.F.T.R. 2d 76–5802); *Midland National Life Insurance Co.* v. *Commissioner*, 66 T.C. 550.

Like the prior appellate decisions, the court of appeals in this case correctly recognized that the assumption of full premium payment is a fiction, since life insurance companies do not in fact receive annual premiums in full as of the end of the taxable year (see Pet. App. B 15a). But the court thereupon erroneously characterized the prior decisions themselves as "predicated on a fiction and a desire to achieve accounting uniformity" (Pet. App. B 16a). In so holding, the court overlooked the critical fact that the assumption of full premium payment results in an equally fictional overstatement of reserves. It is this

overstatement of reserves that requires the inclusion of the full premium in "assets," not simply as a matter of accounting uniformity, but to preserve the integrity of the Phase I formula.

As the Fourth Circuit succinctly put it in *Jefferson Standard Life Insurance Co.* v. *United States, supra*, 408 F. 2d at 856, "If the full annual net valuation premium is treated as a reserve liability under § 804, the corresponding asset should be the gross annual premium * * *; else the formula is unbalanced to the unwarranted benefit of taxpayer." In sum, if the assumption of full premium payment is accepted at all, a company must apply that assumption in computing its "assets" as well as its "reserves." If that were not the case, the Phase I formula would not accurately reflect the true proportional relationship between reserves and assets.

The decision below attempted to refute the analyses of the four circuits that have upheld the Commissioner's position on the ground that respondent was required by Oklahoma law to establish reserves for each of its policies on the assumption of full premium payment as of the end of the year. From this premise, the court concluded that while "the reserves actually exist as a liability, the unpaid premiums do not exist until actually paid" (Pet. App. B 14a). In its view, the net valuation portions of the deferred and uncollected premiums were therefore required to be included in respondent's reserves while such premiums could not be included in its "assets."

Contrary to the reasoning of the court of appeals, the reserves of a life insurance company are not book-

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keeping entries made in a vacuum apart from the company's premiums and assets. As we have pointed out in Part B, *supra,* pp. 29–33, reserves represent the company's liabilities to the policyholders only to the extent that the policyholders pay premiums which the company can use to cover its reserves. See, *e.g., New York Life Ins. Co.* v. *Edwards, supra,* 271 U.S. at 119. Moreover, it is universally recognized that the inclusion of deferred and uncollected premiums in the amount of the reserves shown on a company's annual statement does not reflect an actual liability that impairs the company's surplus (see pp. 36–37, *supra*). Thus, even accepting the court of appeals' assumption that state law required respondent to include the net valuation portion of its deferred and uncollected premiums in the computation of its reserves,[31] the Commissioner's Regulations require a consistent application of the selfsame assumption upon which that computational requirement is based, *viz.,* that all of the premiums have been paid as of the policy anniversary dates.

In sum, there is no justification for the imbalance created by the contradictory set of assumptions upon

[31] But cf. Ernst & Ernst, *GAAP—Stock Life Companies, supra,* which states (p. 450):

"There is no statutory requirement to compute mean reserves, *i.e.*, reserves which assume the receipt of an annual net premium. But companies continue to do so, primarily for ordinary insurance, in part because this approach is traditional, in part because published tables of reserve factors use the mean reserve approach, and in part because the volume of reserve factors which recognize mode and paid-to date would be so great as to constitute an administrative problem of monstrous proportions."

which the decision below rests. If the net valuation portions of the deferred and uncollected premiums are included in a company's reserves in the Phase I computation in accordance with the traditional insurance industry convention, those premiums must be deemed to have been paid and to be part of the company's assets in that computation. Treasury Regulations, Section 1.805–5(a)(4)(ii), Ex. (1).

3. a. The error of the decision below is underlined by the fact that the life insurance industry itself has never taken the extreme position of the court of appeals. In all of the appellate litigation to date under the Life Insurance Company Income Tax Act of 1959, the industry has not contended that deferred and uncollected premiums could be excluded in their entirety from "assets" under Section 805(b)(4) in the Phase I computation. To the contrary, the industry has acknowledged that deferred and uncollected premiums are includable in "assets," at least to the extent of the net valuation portion of those premiums.

The industry's position is shown by the sequence of events in *Western National Life Insurance Co. of Texas* v. *Commissioner, supra.* There, the Tax Court originally held, in conformity with the decision below in this case (50 T.C. 285, 297–300), that all deferred and uncollected premiums were excludable from "assets." However, on the Commissioner's motion for reconsideration, the Tax Court modified its decision and adopted the position of the Life Insurers Conference, the American Life Convention, and the Life

Insurance Association of America as *amici curiae* that deferred and uncollected premiums were includable in "assets" only to the extent of the net valuation portion of those premiums (51 T.C. 824). The Fifth Circuit reversed the Tax Court and upheld the Commissioner's position that the full amount of the deferred and uncollected premiums was includable in "assets." In so holding, it noted that the Tax Court's decision was in conformity with the industry's views (see 432 F. 2d at 301).[32]

The Life Insurance Council of America[33] intends to file an *amicus* brief in this case. It has advised us that it will likewise contend that deferred and uncollected premiums be included in "assets" only to the extent of the net valuation portion of such premiums. In the industry's view, as expressed in its briefs in the prior cases, the net valuation portion of the deferred and uncollected premiums should be included in "assets" to offset the reserves that are determined on a net valuation annual premium basis, but the loading element of those premiums should be excluded from "assets." In support of this treatment, the industry has relied upon the annual statement form approved by the National Association of Insurance Commis-

[32] After four circuits had rejected the approach of its modified decision in *Western National Life Insurance Co.* (51 T.C. 824), the Tax Court subsequently upheld the Commissioner's position in *Bankers Union Life Insurance Co.* v. *Commissioner*, 62 T.C. 661. Its holding here was on the authority of that latter decision (Pet. App. A 7a–8a).

[33] The American Life Convention and the Life Insurance Association of America have merged. The successor organization is the Life Insurance Council of America.

sioners and employed by the insurance departments of most States (see Exs. E, F, H, A. 60–61, 75–76, 90–91).

Pursuant to the NAIC form, an insurance company offsets the overstatement of its reserves in the amount of the net valuation portion of the deferred and uncollected premiums by creating an asset equal in amount called "Life insurance premiums and annuity considerations deferred and uncollected." This asset is the gross amount of these premiums minus the loading element. However, as we pointed out in our discussion of the origins of this accounting convention (see pp. 34–37, *supra*), the sole consideration underlying the NAIC form is to provide an accurate picture of the company's solvency. Thus, if the company assumes receipt of the full annual premium and thereby overstates its reserves by the net valuation portion of those premiums, the solution devised by the NAIC form is to establish an asset to offset the overstatement of the reserves. The net effect of such offsetting entries is the same as if the deferred and uncollected premiums were disregarded for all purposes on the company's annual statement. See Wightman, *supra*, at 373–375.

But the NAIC goal of achieving an accurate report of a company's solvency is entirely unrelated to the purpose of the Phase I tax computation, which is designed to measure the proportional relationship of the company's assets and reserves. As this Court stated in *McCoach* v. *Insurance Company of North America*, 244 U.S. 585, 589: "The act of Congress, on the other hand, deals with reserves not particularly in

their bearing upon the solvency of the company, but as they aid in determining what part of the gross income ought to be treated as net income for purposes of taxation."

If a life insurance company assumes that the deferred and uncollected premiums on all of its policies have been paid as of their anniversary dates and increases its reserves for tax purposes by the net valuation portion of such premiums, that assumption necessarily stands on the hypothesis that the company has received the *full* amount of those premiums and not some lesser amount. Put another way, since the policyholder pays the gross amount of the premium and not the net valuation portion, it is the gross premium that must be included in the company's "assets."[34]

b. Nor does Section 818(a) of the Code, upon which the industry has relied in the prior cases, support a different result. that statute provides that life insurance companies must make all tax computations "under an accrual method of accounting." The last sentence of Section 818(a) states: "Except as pro-

[34] The NAIC financial reporting method is basically incompatible with the Phase I formula. The NAIC inclusion of equal net valuation amounts in both "reserves" and "assets" for deferred and uncollected premiums would distort the proportional relationship of reserves to assets by erroneously assuming that these two elements increase in numerically equivalent amounts. This contrary-to-fact assumption would in turn distort the Phase I formula by increasing the fraction $\frac{\text{Reserves}}{\text{Assets}}$. See *Franklin Life Insurance Co. v. United States*, *supra*, 399 F. 2d at 760. The result would allocate a greater portion of investment income to the policyholder reserves and a lesser amount to the company's surplus than is justified by the actual facts.

vided in the preceding sentence, all such computations shall be made in a manner consistent with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners." The industry has contended that this reference to the NAIC annual statement provides statutory authority for the adoption of the NAIC's treatment of deferred and uncollected premiums for tax purposes.

But the language of the statute makes clear that the NAIC treatment of a particular item is only to be accepted when it is consistent with an accrual method of accounting. See H.R. Rep. No. 34, *supra*, at 42; S. Rep. No. 291, *supra*, at 72–73. The NAIC treatment, however, is not an accrual method of accounting within the accepted meaning of that term. It assumes receipt of the gross deferred and uncollected premiums only for purposes of the reserve liabilities, but does not correspondingly treat the full amount of those premiums as receivables on the assets side of the balance sheet. As the Fifth Circuit correctly observed, "In point of fact, the N.A.I.C. method is a hybrid method and not strictly an accrual method." *Western National Life Insurance Co. of Texas* v. *Commissioner*, *supra*, 432 F. 2d at 301. Without the assumption of full premium payment, deferred and uncollected premiums would not be properly accruable under an accrual method of accounting. But once the assumption of full premium payment is made, an accrual method of accounting requires that these premiums be taken into account consistently for assets as well as liabilities.

The courts of appeals have therefore correctly rejected the insurance industry's attempt to impose the NAIC method of accounting upon the Internal Revenue Code. As the Seventh Circuit observed in *Franklin Life Insurance Co.* v. *United States, supra,* 399 F. 2d at 760, "The careful and detailed attention given by Congress throughout Sections 801 through 820 to definition of the particular items utilized as factors in the tax formula and in specifying and enumerating the permissible deductions and exclusions negates the existence of any intent on the part of Congress to relegate the substantive matter of offsetting or excluding loading on deferred and uncollected premiums, with its concomitant impact on the resulting tax, to the NAIC." [35] Accord: *Jefferson Standard Life Insurance Co.* v. *United States, supra,* 408 F. 2d at

[35] The limited role of the NAIC method of financial reporting is confirmed by the position the insurance industry took during the hearings on the 1959 Act. At that time, the industry stressed that the NAIC annual statement and the annual statement's Summary of Operations were "intended only for use * * * as a measure of solvency and not for use as a year-to-year measure of earned income for tax purposes." See Hearings on H.R. 4245 (Tax Formula for Life Insurance Companies) before the Senate Committee on Finance, 86th Cong., 1st Sess. 302 (1959) (Statement of Francis V. Keesling, Jr.). Likewise, Claris Adams, who was General Counsel of the American Life Convention, stated during the House hearings (Hearings on the Taxation of Income of Life Insurance Companies before the Subcommittee on Internal Revenue Taxation of the House Committee on Ways and Means, 85th Cong., 2d Sess. 56 (1958):

"It follows that the results in any given year, as shown by a life insurance company's annual statement, are so much of the product of estimates of future liabilities based on probabilities that the results themselves are essentially estimates instead of actualities.

"As a matter of fact, the annual statement of life insurance companies as designed by the National Association of Insurance Commissioners does not show, and never was intended to show, yearly profit and loss on company operations, but has only been constructed to reflect an overall standard of probable solvency. It cannot be too strongly emphasized that the annual statement of life insurance companies is not a profit-and-loss statement."

849–850, 856; *Western National Life Insurance Co. of Texas* v. *Commissioner, supra,* 432 F. 2d at 301–302; *Western and Southern Life Insurance Co.* v. *Commissioner, supra,* 460 F. 2d at 12–14.

D. A LIFE INSURANCE COMPANY THAT INCLUDES THE NET VALUATION PORTION OF DEFERRED AND UNCOLLECTED PREMIUMS IN "RESERVES" MUST INCLUDE THE GROSS AMOUNT OF SUCH PREMIUMS IN ITS COMPUTATION OF "GROSS AMOUNT OF PREMIUMS" UNDER SECTION 809(C)(1)

1. The necessity for consistency of assumptions applies with equal force to the Phase II computation of a life insurance company's "gain from operations" under Section 809. As we have pointed out *supra,* pp. 7–8, the company's "gain from operations" includes its income from all sources less certain specified deductions. Since "gain from operations" includes an element of investment income (see Section 809(b)(1)(A)), the further computation of "gain from operations" is directed toward taking into account income from other sources, principally underwriting income. A company has underwriting gains when the premiums it charges for policies are in excess of its costs in providing the coverage.

The Section 809 computation of "gain from operations" involves totalling the company's income items and offsetting that amount by its deductions in essentially the same manner as any other computation of net income. In addition to the company's share of

investment income, the income items include "gross amount of premiums," net decreases in reserves, and other amounts (Section 809(c)). The specified deductions include non-investment expenses, such as underwriting expenses, salaries, and general overhead, and claims paid (Section 809(d)). In accord with the congressional decision to exclude from the tax base that portion of premiums necessary to meet future claims, Section 809(d)(2) permits a deduction for increases in reserves that are attributable to premiums included in income under Section 809(c)(1). After subtracting the various deductions from the company's gross income from all sources, the resulting figure is its "gain from operations."

The court of appeals' holding that respondent was not required to include any part of the deferred and uncollected premiums in "gross amount of premiums" under Section 809(c)(1) suffers from the same infirmity as its exclusion of those premiums from "assets" under Section 805(b)(4). As the mechanics of the Phase II computation demonstrate, Section 809(d)(2) allows a deduction for increases to reserves. Thus, if an insurance company computes its reserves on the traditional assumption of full premium payment and claims a Section 809(d)(2) deduction for those reserves, it must likewise apply that assumption to the income side of the tax computation and include the full amount of the deferred and uncollected premiums in "gross amount of premiums" under Section 809(c)(1). Treasury Regulations, Section 1.809-4(a); *Franklin Life Insurance Co.* v. *United States, supra,* 399 F. 2d at 760–761; *Jefferson Standard Life Insurance Co.* v. *United States, supra,* 408 F. 2d at 855–856; *Western National Life Insurance Co. of Texas* v. *Commissioner, supra,* 432 F. 2d at 301–302; *Western and Southern Life Insurance Co.* v. *Commissioner, supra,* 460 F. 2d at 11–14. If the deferred and uncollected premiums are not included in income, there is no warrant for the deduction for reserves attributable to such premiums. The integrity of a computation of net income requires that uniform assumptions be made with respect to both income and deduction items.

2. Thus, the decision of the court of appeals cannot be justified on any rational basis. But the insurance industry has contended in the prior cases, and presumably the *amicus* Life Insurance Council will likewise urge here, that it is entitled to a deduction or offset for loading on deferred and uncollected premiums so that such premiums are included in income in the Phase II computation only to the extent of the net valuation portion. In support of this approach, the industry again invokes the authority of the NAIC method of financial reporting.

As we have shown with respect to the Phase I computation (see pp. 34–37, 47, *supra*), the sole concern of the NAIC method is to project an accurate report of the company's solvency. Thus, on the NAIC form entitled "Summary of Operations," the company includes its gross deferred and uncollected premiums in "Premiums and annuity considerations" (line 1.1) and deducts: (1) the net valuation portion in "Increase in aggregate reserve for policies and contracts with life

contingencies" (line 17); and (2) the loading element in "Increase in loading on * * * deferred and uncollected premiums" (line 25) (see Ex. F, A. 77). The net effect of these computations is to cancel out any impact of deferred and uncollected premiums on the company's income statement because the additions on the income side exactly equal the subtractions on the deductions side.

The courts of appeals have properly rejected, as inconsistent with the language of the statute, the industry's position that only the net valuation portion of the deferred and uncollected premiums be included in income. Section 809(c)(1) requires the inclusion in income of the "*gross* amount of premiums" and not any lesser amount. Moreover, the NAIC deduction for the company's increase in loading on deferred and uncollected premiums is not one of the deductible items specified in Section 809(d). Since "a taxpayer seeking a deduction must be able to point to an applicable statute and show that he comes within its terms" (*New Colonial Co.* v. *Helvering*, 292 U.S. 435, 440),[36] there is no basis for the industry's claim to a nonstatutory tax deduction for the net increase in loading.

E. ALTERNATIVELY, IF DEFERRED AND UNCOLLECTED PREMIUMS ARE NOT INCLUDED IN "ASSETS" AND "GROSS AMOUNT OF PREMIUMS," THE NET VALUATION PORTION OF THOSE PREMIUMS MUST LIKEWISE BE EXCLUDED FROM "RESERVES"

The core of our submission in this case is that a life insurance company must treat its deferred and uncollected premiums for federal tax purposes in accordance with a consistent set of assumptions. Recognizing the industry-wide assumption that premiums have been paid in full as of the anniversary dates of the policies and that the computation of reserves will be made in accordance with that assumption, the pertinent Treasury Regulations (Sections 1.805–5(a)(4)(ii) and 1.809–4(a)) likewise properly require that deferred and uncollected premiums be included in "assets" and "gross amount of premiums." In this manner, the assumption of full premium payment will be given effect for all of the elements of the federal tax computations.

As noted (pp. 34–37, *supra*), the asumption of full premium payment is a financial reporting convention adopted by the life insurance industry to simplify the actuarial determinations of its year-end reserves. To the extent that the reserves reflect the net valuation portion of the deferred and uncollected premiums, they are overstated and represent no actual liability of the company. The company is only liable to pay the benefits for periods with respect to which the premiums have actually been paid. Indeed, the NAIC accounting device of creating a "quasi-asset" equal to the net valuation portion of the deferred and uncollected premiums to offset the overstatement of the reserves convincingly demonstrates that the overstatement of the reserves does not encumber any real assets of the company.

If the industry-wide assumption of full premium payment were disregarded for purposes of the federal tax computation, consistency could nevertheless be

[36] The Court has likewise invoked the principle that deductions must be supported by a particular statute in connection with the taxation of life insurance companies. See *Helvering* v. *Independent Life Ins. Co.*, 292 U.S. 371, 381.

achieved by excluding deferred and uncollected premiums from "reserves," "assets," and "gross amount of premiums." This alternative approach is set forth in Treasury Regulations, Section 1.801–4(f), which provides that if it is determined that deferred and uncollected premiums are not properly includable in "gross amount of premiums" and "assets," then "apporpriate reduction shall be made in the life insurance reserves."

In prescribing this alternative method, the Regulations make certain that if deferred and uncollected premiums are not to be included in "assets" and "gross amount of premiums," as the decision below has held, the net valuation portion of those premiums cannot be included in "reserves." Thus, the alternative approach would continue to guarantee the integrity of the tax computations.

The exclusion of deferred and uncollected premiums altogether from "assets," "gross amount of premiums," and "reserves" is arguably more consistent with the decisions of the Court recognizing that a life insurance reserve arises only upon the payment of premiums (see pp. 29–31, *supra*). Since the policyholder has not paid the deferred and uncollected premiums and has no legal obligation to do so, there are in fact no premiums to be included in "assets" or "gross amount of premiums." Likewise there are no amounts which are "set aside" (Section 801(b)(1)(B)) or "reserved from premiums" that would support the existence of a reserve. See *New York Life Ins. Co.* v. *Edwards, supra,* 271 U.S. at 119.

Thus, the exclusion of deferred and uncollected premiums from these three elements in the tax computations has much to commend it as a matter of absolute logic. Moreover, the seminal opinion of the Seventh Circuit in *Franklin Life Insurance Co.* v. *United States, supra,* 399 F. 2d at 761, acknowledged that "[i]f the fictional assumption were not indulged and only those reserves were accrued as were attributable to paid up portions of annual premiums, then the problem from an accrual standpoint would be simpler."

On this dual rationale of logic and simplicity, a trial judge of the Court of Claims has recently held that deferred and uncollected premiums are not includable in "assets," "gross amount of premiums," or "reserves," in accord with the alternative approach of Treasury Regulations, Section 1.801–4(f). See *Monumental Life Insurance Co.* v. *United States,* No. 71–73, decided November 19, 1976 (Ct. Cl.) (76–2 U.S.T.C. ¶ 9787). But despite the logic and simplicity of total exclusion of deferred and uncollected premiums, the Commissioner is willing to accept the life insurance industry's fictional assumption of full premium payment and consequent overstatement of reserves as long as the same assumption is consistently applied in computing the other elements of the tax formula.

Hence, our primary postion, as set forth in Treasury Regulations, Sections 1.805–5(a)(4)(ii) and 1.809–4(a)(1), is that gross deferred and uncollected premiums must be included in "assets" and "gross amount of premiums" if the net valuation por-

tion of such premiums is to be included in "reserves." However, if the Court disagrees with our submission that the full amount of deferred and uncollected premiums be included in "assets" and "gross amount of premiums," the proper disposition of this case would be to exclude such premiums entirely from the tax computations, in accordance with Treasury Regulations Section 1.801–4(f).

CONCLUSION

For the reasons stated, the judgment of the court of appeals should be reversed.

Respectfully submitted.

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APPENDIX

Internal Revenue Code of 1954 (26 U.S.C. (1958 ed., Supp. II)):

SEC. 801 [as added by Sec. 2(a), Life Insurance Company Income Tax Act of 1959, P.L. 86-69, 73 Stat. 112]. DEFINITION OF LIFE INSURANCE COMPANY.

* * * * *

(b) *Life Insurance Reserves Defined.*—

(1) *In general.*—For purposes of this part, the term "life insurance reserves" means amounts—

(A) which are computed or estimated on the basis of recognized mortality or morbidity tables and assumed rates of interest, and

(B) which are set aside to mature or liquidate, either by payment or reinsurance, future unaccrued claims arising from life insurance, annuity, and noncancellable health and accident insurance contracts (including life insurance or annuity contracts combined with noncancellable health and accident insurance) involving, at the time with respect to which the reserve is computed, life, health, or accident contingencies.

(2) *Reserves must be required by law.*—Except—

(A) in the case of policies covering life, health, and accident insurance combined in one policy issued on the weekly premium

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payment plan, continuing for life and not subject to cancellation,

(B) in the case of policies issued by an organization which meets the requirements of section 501(c)(9) other than the requirement of subparagraph (B) thereof, and

(C) as provided in paragraph (3),

in addition to the requirements set forth in paragraph (1), life insurance reserves must be required by law.

* * * * *

SEC. 802 [as added by Sec. 2(a), Life Insurance Company Income Tax Act of 1959 *supra.*] TAX IMPOSED.

(a) *Tax Imposed.*—

(1) *In General.*—A tax is hereby imposed for each taxable year beginning after December 31, 1957, on the life insurance company taxable income of every life insurance company. Such tax shall consist of—

(A) a normal tax on such income computed at the rate provided by section 11 (b), and

(B) a surtax, on so much of such income as exceeds $25,000, computed at the rate provided by section 11(c).

* * * * *

(b) *Life Insurance Company Taxable Income Defined.*—For purposes of this part, the term "life insurance company taxable income" means the sum of—

(1) the taxable investment income (as defined in section 804) or, if smaller, the gain from operations (as defined in section 809),

(2) if the gain from operations exceeds the taxable investment income, an amount equal to 50 percent of such excess, plus

(3) the amount subtracted from the policyholders surplus account for the taxable year, as determined under section 815.

SEC. 804 [as added by Sec. 2(a), Life Insurance Company Income Tax Act of 1959, *supra*]. TAXABLE INVESTMENT INCOME.

(a) *In General.*—

(1) *Exclusion of policyholders' share of investment yield.*—The policyholders' share of each and every item of investment yield (including tax-exempt interest, partially tax-exempt interest, and dividends received) of any life insurance company shall not be included in taxable investment income. For purposes of the preceding sentence, the policyholders' share of any item shall be that percentage obtained by dividing the policy and other contract liability requirements by the investment yield; except that if the policy and other contract liability requirements exceed the investment yield, then the policyholders' share of any item shall be 100 percent.

(2) *Taxable investment income defined.*—For purposes of this part, the taxable investment income for any taxable year shall be an amount (not less than zero) equal to the sum of the life insurance company's share of each and every item of investment yield (including tax-exempt interest, partially tax-exempt interest, and dividends received), reduced by—

(A) the sum of—

(i) the life insurance company's share of interest which under section 103 is excluded from gross income,

(ii) the deduction for partially tax-exempt interest provided by section 242 (as modified by paragraph (3)) computed with respect to the life insurance company's share of such interest, and

(iii) the deductions for dividends received provided by sections 243, 244, and 245 (as modified by paragraph (5)) computed with respect to the life insurance company's share of the dividends received; and

(B) the small business deduction provided by paragraph (4).

For purposes of the preceding sentence, the life insurance company's share of any item shall be that percentage which, when added to the percentage obtained under the second sentence of paragraph (1), equals 100 percent.

* * * * *

(b) *Gross Investment Income.*—For purposes of this part, the term "gross investment income" means the sum of the following:

(1) *Interest, etc.*—The gross amount of income from—

(A) interest, dividends, rents, and royalities,

(B) the entering into of any lease, mortgage, or other instrument or agreement from which the life insurance company derives interest, rents, or royalties, and

(C) the alteration or termination of any instrument or agreement described in subparagraph (B).

(2) *Short-term capital gain.*—In the case of a taxable year beginning after December 31, 1958, the amount (if any) by which the net short-term capital gain exceeds the net long-term capital loss.

(3) *Trade or business income.*—The gross income from any trade or business (other than an insurance business) carried on by the insurance company, or by a partnership of which the life insurance company is a partner. In computing gross income under this paragraph, there shall be excluded any item described in paragraph (1).

Except as provided in paragraph (2), in computing gross investment income under this subsection, there shall be excluded any gain from the sale or exchange of a capital asset, and any gain considered as gain from the sale or exchange of a capital asset.

(c) *Investment Yield Defined.*—For purposes of this part, the term "investment yield" means the gross investment income less the following deductions—

(1) *Investment expenses.*—Investment expenses for the taxable year. If any general expenses are in part assigned to or included in the investment expenses, the total deduction under this paragraph shall not exceed the sum of—

(A) one-fourth of one percent of the mean of the assets (as defined in section 805(b)(4)) held at the beginning and end of the taxable year,

(B) the amount of the mortgage service fees for the taxable year, plus

(C) whichever of the following is the greater:

(i) one-fourth of the amount by which the investment yield (computed without any deduction for investment expenses allowed by this paragraph) exceeds 3¾ percent of the mean of the assets (as defined in section 805(b)(4)) held at the beginning and end of the taxable year, reduced by the amount described in subparagraph (B), or

(ii) one-fourth of one percent of the mean of the value of mortgages held at the beginning and end of the taxable year for which there are no mortgage service fees for the taxable year.

(2) *Real estate expenses.*—The amount of taxes (as provided in section 164), and other expenses, for the taxable year exclusively on or with respect to the real estate owned by the company. No deduction shall be allowed under this paragraph for any amount paid out for new buildings, or for permanent improvements or betterments made to increase the value of any property.

(3) *Depreciation.*—The deduction allowed by section 167. The deduction under this paragraph and paragraph (2) on account of any real estate owned and occupied for insurance purposes in whole or in part by a life insurance company shall be limited to an amount which bears the same ratio to such deduction (computed without regard to this sentence)

as the rental value of the space not so occupied bears to the rental value of the entire property.

(4) *Depletion.*—The deduction allowed by section 611 (relating to depletion).

(5) *Trade or business deductions.*—The deductions allowed by this subtitle (without regard to this part) which are attributable to any trade or business (other than an insurance business) carried on by the life insurance company, or by a partnership of which the life insurance company is a partner; except that in computing the deduction under this paragraph—

(A) There shall be excluded losses—

(i) from (or considered as from) sales or exchanges of capital assets,

(ii) from sales or exchanges of property used in the trade or business (as defined in section 1231(b)), and

(iii) from the compulsory or involuntary conversion (as a result of destruction, in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof) of property used in the trade or business (as so defined).

(B) Any item, to the extent attributable to the carrying on of the insurance business, shall not be taken into account.

(C) The deduction for net operating losses provided in section 172, and the

special deductions for corporations provided in part VIII of subchapter B, shall not be allowed.

SEC. 805 [as added by Sec. 2(a), Life Insurance Company Income Tax Act of 1959, *supra*]. POLICY AND OTHER CONTRACT LIABILITY REQUIREMENTS.

(a) *In General.*—For purposes of this part, the term "policy and other contract liability requirements" means, for any taxable year, the sum of—

(1) the adjusted life insurance reserves, multiplied by the adjusted reserves rate,

(2) the mean of the pension plan reserves at the beginning and end of the taxable year, multiplied by the current earnings rate, and

(3) the interest paid.

(b) *Adjusted Reserves Rate and Earnings Rates.*—

(1) *Adjusted reserves rate.*—For purposes of this part, the adjusted reserves rate for any taxable year is the average earnings rate or, if lower, the current earnings rate.

(2) *Current earnings rate.*—For purposes of this part, the current earnings rate for any taxable year is the amount determined by dividing—

(A) the taxpayer's investment yield for such taxable year, by

(B) the mean of the taxpayer's assets at the beginning and end of the taxable year.

(3) *Average earnings rate.*—

(A) *In general.*—For purposes of this part, the average earnings rate for any

taxable year is the average of the current earnings rates for such taxable year and for each of the 4 taxable years immediately preceding such taxable year (excluding any of such 4 taxable years for which the taxpayer was not an insurance company).

(B) *Special rules.*—For purposes of subparagraph (A)—

(i) the current earnings rate for any taxable year beginning before January 1, 1958, shall be determined as if this part (as in effect for 1958) and section 381(c)(22) applied to such taxable year, and

(ii) the current earnings rate for any taxable year of any company which, for such year, is an insurance company (but not a life insurance company) shall be determined as if this part applied to such company for such year.

(4) *Assets.*—For purposes of this part, the term "assets" means all assets of the company (including nonadmitted assets), other than real and personal property (excluding money) used by it in carrying on an insurance trade or business. For purposes of this paragraph, the amount attributable to—

(A) real property and stock shall be the fair market value thereof, and

(B) any other asset shall be the adjusted basis (determined without regard to fair market value on December 31, 1958) of such asset for purposes of de-

termining gain on sale or other disposition.

(c) *Adjusted Life Insurance Reserves.*—

(1) *Adjusted life insurance reserves defined.*—For purposes of this part, the term "adjusted life insurance reserves" means—

(A) the mean of the life insurance reserves (as defined in section 801(b)), other than pension plan reserves, at the beginning and end of the taxable year, multiplied by

(B) that percentage which equals 100 percent—

(i) increased by that percentage which is 10 times the average rate of interest assumed by the taxpayer in calculating such reserves, and

(ii) reduced by that percentage which is 10 times the adjusted reserves rate.

(2) *Average interest rate assumed.*—For purposes of this part, the average rate of interest assumed in calculating reserves shall be computed—

(A) by multiplying each assumed rate of interest by the means of the amounts of such reserves computed at that rate at the beginning and end of the taxable year, and

(B) by dividing (i) the sum of the products ascertained under subparagraph (A), by (ii) the mean of the total of such reserves at the beginning and end of the taxable year.

* * * * *

SEC. 809 [as added by Sec. 2(a), Life Insurance Company Income Tax Act of 1959, *supra*]. IN GENERAL.

(a) *Exclusion of Share of Investment Yield Set Aside for Policyholders*—

(1) *Amount.*—The share of each and every item of investment yield (including tax-exempt interest, partially tax-exempt interest, and dividends received of any life insurance company set aside for policyholders shall not be included in gain or loss from operations. For purposes of the preceding sentence, the share of any item set aside for policyholders shall be that percentage obtained by dividing the required interest by the investment yield; except that if the required interest exceeds the investment yield, then the share of any item set aside for policyholders shall be 100 percent.

(2) *Required interest.*—For purposes of this part, the required interest for any taxable year is the sum of the products obtained by multiplying—

(A) each rate of interest required, or assumed by the taxpayer, in calculating the reserves described in section 810(c), by

(B) the means of the amount of such reserves computed at that rate at the beginning and end of the taxable year.

(b) *Gain and Loss From Operations.*—

(1) *Gain from operations defined.*—For purposes of this part, the term "gain from operations" means the amount by which the sum of the

following exceeds the deductions provided by subsection (d):

(A) the life insurance company's share of each and every item of investment yield (including tax-exempt interest, partially tax-exempt interest, and dividends received); and

(B) the sum of the items referred to in subsection (e).

(2) *Loss from operations defined.*—For purposes of this part, the term "loss from operations" means the amount by which the sum of the deductions provided by subsection (d) exceeds the sum of—

(A) the life insurance company's share of each and every item of investment yield (including tax-exempt interest, partially tax-exempt interest, and dividends received); and

(B) the sum of the items referred to in subsection (c).

(3) *Life insurance company's share.*—For purposes of this subpart, the life insurance company's share of any item shall be that percentage which, when added to the percentage obtained under the second sentence of subsection (a)(1), equals 100 percent.

(4) *Exception.*—If it is established in any case that the application of the definition of gain from operations contained in paragraph (1) results in the imposition of tax on—

(A) any interest which under section 103 is excluded from gross income,

(B) any amount of interest which under section 242 (as modified by section 804(a)(3)) is allowable as a deduction, or

(C) any amount of dividends received which under sections 243, 244, and 245 (as modified by subsection (d)(8)(B)) is allowable as a deduction,

adjustment shall be made to the extent necessary to prevent such imposition.

(c) *Gross Amount.*—For purposes of subsections (b)(1) and (2), the following items shall be taken into account:

(1) *Premiums.*—The gross amount of premiums and other consideration (including advance premiums, deposits, fees, assessments, and consideration in respect of assuming liabilities under contracts not issued by the taxpayer) on insurance and annuity contracts (including contracts supplementary thereto); less return premiums, and premiums and other consideration arising out of reinsurance ceded. Except in the case of amounts of premiums or other consideration returned to another life insurance company in respect of reinsurance ceded, amounts returned where the amount is not fixed in the contract but depends on the experience of the company or the discretion of the management shall not be included in return premiums.

(2) *Decreases in certain reserves.*—Each net decrease in reserves which is required by section 810 or 811(b)(2) to be taken into account for purposes of this paragraph.

(3) *Other amounts.*—All amounts, not included in computing investment yield and not includible under paragraph (1) or (2), which under this subtitle are includible in gross income.

Except as included in computing investment yield, there shall be excluded any gain from the sale or exchange of a capital asset, and any gain considered as gain from the sale or exchange of a capital asset.

(d) *Deductions.*—For purposes of subsections (b)(1) and (2), there shall be allowed the following deductions:

(1) *Death benefits, etc.*—All claims and benefits accrued, and all losses incurred (whether or not ascertained), during the taxable year on insurance and annuity contracts (including contracts supplementary thereto).

(2) *Increases in certain reserves.*—The net increase in reserves which is required by section 810 to be taken into account for purposes of this paragraph.

(3) *Dividends to policyholders.*—The deduction for dividends to policyholders (determined under section 811(b)).

(4) *Operations loss deduction.*—The operations loss deduction (determined under section 812).

(5) *Certain nonparticipating contracts.*—An amount equal to 10 percent of the increase for the taxable year in the reserves for nonparticipating contracts or (if greater) an amount equal to 3 percent of the premiums for the taxable year (excluding that portion of the premiums which is allocable to annuity features) attributable to nonparticipating

contracts (other than group contracts) which are issued or renewed for periods of 5 years or more. For purposes of this paragraph, the term "reserves for nonparticipating contracts" means such part of the life insurance reserves (excluding that portion of the reserves which is allocable to annuity features) as relates to nonparticipating contracts (other than group contracts). For purposes of this paragraph and paragraph (6), the term "premiums" means the net amount of the premiums and other consideration taken into account under subsection (c)(1).

(6) *Group life, accident and health insurance.*—An amount equal to 2 percent of the premiums for the taxable year attributable to group life insurance contracts and group accident and health insurance contracts. The deduction under this paragraph for the taxable year and all preceding taxable years shall not exceed an amount equal to 50 percent of the premiums for the taxable year attributable to such contracts.

(7) *Assumption by another person of liabilities under insurance, etc., contracts.*—The consideration (other than consideration arising out of reinsurance ceded) in respect of the assumption by another person of liabilities under insurance and annuity contracts (including contracts supplementary thereto).

(8) *Tax-exempt interest, dividends, etc.*—

(A) *Life insurance company's share.*—Each of the following items:

(i) the life insurance company's share of interest which under section

103 is excluded from gross income,

(ii) the deduction for partially tax-exempt interest provided by section 242 (as modified by section 804 (a)(3)) computed with respect to the life insurance company's share of such interest, and

(iii) the deductions for dividends received provided by sections 243, 244, and 245 (as modified by subparagraph (B)) computed with respect to the life insurance company's share of the dividends received.

(B) *Application of Section 246(b).*—In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of subparagraph (A)(iii), the limit on the aggregate amount of the deductions allowed by sections 243 (a), 244, and 245 shall be 85 percent of the gain from operations computed without regard to—

(i) the deductions provided by paragraphs (3), (5), and (6) of this subsection,

(ii) the operations loss deduction provided by section 812, and

(iii) the deductions allowed by sections 243(a), 244, and 245,

but such limit shall not apply for any taxable year for which there is a loss from operations.

(9) *Investment expenses, etc.*—Investment expenses to the extent not allowed as a deduction under section 804(c)(1) in computing investment yield, and the amount (if any) by which the sum of the deductions allowable under section 804(c) exceeds the gross investment income.

(10) *Small business deduction.*—A small business deduction in an amount equal to the amount determined under section 804 (a)(4).

(11) *Certain mutualization distributions.*—The amount of distributions to shareholders made in 1958 and 1959 in acquisition of stock pursuant to a plan of mutualization adopted before January 1, 1958.

(12) *Other deductions.*—Subject to the modifications provided by subsection (e), all other deductions allowed under this subtitle for purposes of computing taxable income to the extent not allowed as deductions in computing investment yield.

* * * * *

SEC. 810. [as added by Sec. 2(a), Life Insurance Company Income Tax Act of 1959, *supra*]. RULES FOR CERTAIN RESERVES.

(a) *Adjustment for Decrease.*—If the sum of the items described in subsection (c) as of the beginning of the taxable year exceeds the sum of such items as of the close of the taxable year (reduced by the amount of investment yield not included in gain or loss from operations for the taxable year by reason of section 809(a)(1)), the excess shall be taken into account as a net decrease referred to in section 809(c)(2).

(b) *Adjustment for Increase.*—If the sum of the items described in subsection (c) as of the

close of the taxable year (reduced by the amount of investment yield not included in gain or loss from operations for the taxable year by reason of section 809(a)(1)) exceeds the sum of such items as of the beginning of the taxable year, the excess shall be taken into account as a net increase referred to in section 809(d)(2).

(c) *Items Taken Into Account.*—The items referred to in subsections (a) and (b) are as follows:

(1) The life insurance reserves (as defined in section 801(b)).

(2) The unearned premiums and unpaid losses included in total reserves under section 801(c)(2).

(3) The amounts (discounted at the rates of interest assumed by the company) necessary to satisfy the obligations under insurance or annuity contracts (including contracts supplementary thereto), but only if such obligations do not involve (at the time with respect to which the computation is made under this paragraph) life, health, or accident contingencies.

(4) Dividend accumulations, and other amounts, held at interest in connection with insurance or annuity contracts (including contracts supplementary thereto).

(5) Premiums received in advance, and liabilities for premium deposit funds.

* * * * *

SEC. 818 [as added by Sec. 2(a), Life Insurance Company Income Tax Act of 1959, *supra*]. ACCOUNTING PROVISIONS.

(a) *Method of Accounting.*—All computations entering into the determination of the taxes imposed by this part shall be made—

(1) under an accrual method of accounting, or

(2) to the extent permitted under regulations prescribed by the Secretary or his delegate, under a combination of an accrual method of accounting with any other method permitted by this chapter (other than the cash receipts and disbursements method).

Except as provided in the preceding sentence, all such computations shall be made in a manner consistent with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners.

* * * * *

(f) *Denial of Double Deductions.*—Nothing in this part shall permit the same item to be deducted more than once under subpart B and once under subpart C.

Treasury Regulations on Income Tax (1954 Code) (26 C.F.R.):

§ 1.801–4. *Life insurance reserves.*

* * * * *

(f) *Adjustments to life insurance reserves.* In the event it is determined on the basis of the facts of a particular case that premiums deferred and uncollected and premiums due and unpaid are not properly accruable for the taxable year under section 809 and, accordingly, are not properly includible under assets (as de-

fined in section 805(b)(4)) for the taxable year, appropriate reduction shall be made in the life insurance reserves. This reduction shall be made when the insurance company has calculated life insurance reserves on the assumption that the premiums on all policies are paid annually or that all premiums due on or prior to the date of the annual statement have been paid.

§ 1.805–5 *Adjusted reserves rate and earnings rates.*

(a) *In general.* * * *

* * * * *

(4) *Assets*—(i) *Definition.* Section 805(b)(4) defines the term "assets" as meaning all assets of the life insurance company (including nonadmitted assets), other than real and personal property (excluding money) used by the life insurance company in carrying on an insurance trade or business. For purposes of the preceding sentence, the term "money" includes cash, currency, bank deposits (including time deposits) whether or not interest bearing, share accounts in savings and loan associations, checks (whether or not certified), drafts, money orders, and any other item of similar nature. * * *

* * * * *

(ii) *Illustration of principles.* The provisions of subdivision (i) of this subparagraph may be illustrated by the following examples:

Example (1). Included in the statement of assets of P, a life insurance company, are the following items: Bonds, stocks, mortgages, home office and branch office buildings owned and wholly occupied by the company, furniture and equipment owned by the company and used in the home office and branch office buildings occupied by the company, agents' debit balances, premiums deferred and uncollected and premiums due and unpaid, bank deposits (including time deposits), and share accounts in savings and loan associations. For purposes of section 805(b)(4) and this subparagraph, the home office and branch office buildings owned and wholly occupied by the company, and the furniture and equipment owned by the company and used by it in connection with the operations conducted in the home office and branch office buildings occupied by the company, shall be excluded from the term "assets" since such items are the only ones considered as being used by P in carrying on an insurance trade or busineess. Accordingly, since bonds, stocks, mortgages, agents' debit balances, premiums deferred and uncollected and premiums due and unpaid, bank deposits (including time deposits), and share accounts in savings and loan associations are not considered as being used by P in carrying on an insurance trade or business, they are included within the term "assets" and, therefore, shall be taken into account by P in determining its current earnings rate.

* * * * *

§ 1.809–4. *Gross amount.*

(a) *Items taken into account.* For purposes of determining gain or loss from operations under section 809(b)(1) and (2), respectively, section 809(c) specifies three categories of items

which shall be taken into account. Such items are in addition to the life insurance company's share of the investment yield (as determined under section 809(a)(1) paragraph (c) of § 1.809–2), * * *. The additional three categories of items taken into account are:

(1) *Premiums.* (i) The gross amount of all premiums and other consideration on insurance and annuity contracts (including contracts supplementary thereto); less return premiums and premiums and other consideration arising out of reinsurance ceded. The term "gross amount of all premiums" means the premiums and other consideration provided in the insurance or annuity contract. Thus, the amount to be taken into account shall be the total of the premiums and other consideration provided in the insurance or annuity contract without any deduction for commissions, return premiums, reinsurance, dividends to policyholders, dividends left on deposit with the company, discounts on premiums paid in advance, interest applied in reduction of premiums (whether or not required to be credited in reduction of premiums under the terms of the contract), or any other item of similar nature. Such term includes advance premiums, premiums deferred and uncollected and premiums due and unpaid, deposits, fees, assessments, and consideration in respect of assuming liabilities under contracts not issued by the taxpayer (such as a payment or transfer of property in an

assumption reinsurance transaction as defined in paragraph (a)(7)(ii) of § 1.809–5). The term also includes amounts a life insurance company charges itself representing premiums with respect to liability for insurance and annuity benefits for its employees (including full-time life insurance salesmen within the meaning of section 7701(a)(20)).

* * * * *

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OCTOBER TERM, 1976

No. 75-1771

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

v.

STANDARD LIFE & ACCIDENT INSURANCE COMPANY,
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

BRIEF FOR THE RESPONDENT

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In the

Supreme Court of the United States

OCTOBER TERM, 1976

No. 75-1771

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

v.

STANDARD LIFE & ACCIDENT INSURANCE COMPANY,
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

BRIEF FOR THE RESPONDENT

QUESTIONS PRESENTED

Deferred and uncollected premiums are premiums that have not been paid to a life insurance company by the end of a tax year but that would have been received if all premiums were paid annually on the anniversary date of each policy. This case presents two questions as to the application of particular provisions of the Internal Revenue Code of 1954, as amended in 1959, to such deferred and uncollected premiums: (1) Is any part of deferred and uncollected premiums to be included in a life insurance company's taxable income? (2) In the computation of taxable investment

income, is any part of deferred and uncollected premiums to be included in a life insurance company's assets? An additional question presented by Petitioner is whether not including deferred and uncollected premiums in taxable income and assets requires any adjustment in a life insurance company's life insurance reserves.

STATEMENT

Respondent is a life insurance company organized under the laws of the State of Oklahoma. In computing its liabilities for federal income taxes for the tax years here at issue, Respondent was subject to the provisions of Sections 801 through 820 of the Internal Revenue Code of 1954, as amended in 1959.[1] These provisions basically provide for the taxation of life insurance companies on their gain from operations or on their taxable investment income or in part on gain from operations and in part on taxable investment income.[2]

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[1]Life Insurance Company Income Tax Act of 1959, Pub. L. No. 86-69, 73 Stat. 112 (1959). Unless otherwise specifically indicated, all section references in this Brief shall be to the Internal Revenue Code of 1954, as amended in 1959 and applicable to Respondent's 1958, 1959 and 1961 tax years.

[2]Under Section 802(b)(1), a life insurance company is taxed at regular rates on the lesser of taxable investment income or gain from operations. This element of taxation is normally referred to as "Phase I." In addition, under Section 802(b)(2), if gain from operations exceeds taxable investment income, 50% of the excess is taxed at regular rates in "Phase II." An additional "Phase III" tax on amounts deemed to be distributed out of previously untaxed income is authorized under Sections 802(b)(3) and 815; Phase III is not involved in this case.

"Deferred and uncollected premiums" on insurance policies in force at the end of a life insurance company's tax year arise when insurance premiums are paid in installments rather than fully by the end of the tax year and also when, at the end of the tax year, policies are outstanding that have been extended under "grace period" provisions even though the premium for such period has not been paid (Stip. pars. 7-8, A. 16-17). With respect to both categories of deferred and uncollected premiums, the premium has not been paid by year-end and there is no legal requirement that the policyholder or any person pay such premium. If the premium is not paid, the only consequence is that the life insurance policy will lapse after a specified period (Pet. App. B 11a).

The amount of deferred and uncollected premiums at the end of a particular year may normally be divided into two basic parts: the net valuation portion and the "loading" portion. The net valuation portion of deferred and uncollected premiums is the amount that is assumed to have been paid in the computation of life insurance reserves as required by state law. "Loading" is the difference between the total premium and the net valuation premium and may generally be viewed as an amount set by each particular life insurance company to be added to the net valuation premium for estimated acquisition, administration, management, and operating expenses, for contingencies, for profits in the case of capital stock companies, and for dividends in the case of mutual companies (Stip. par. 6, A. 16).

Respondent computed its life insurance reserves as required under Oklahoma law on the assumption that all premiums including deferred and uncollected premiums had been paid in advance at the anniversary date of each policy (Stip. par. 11, A. 17). The reserves as so computed were required to be maintained by Oklahoma and other state authorities regulating the operations of Respondent, and such reserves were shown by Respondent for each year at issue on the annual statement form approved by the National Association of Insurance Commissioners (Stip. pars. 3, 11, A. 15, 17; Exs. E, F, H, A. 61, 76, 91).[3]

In reporting its income on the NAIC annual statement form, Respondent showed deferred and uncollected premiums as a part of premium income and, as required by the form, showed a deduction for the loading portion of deferred and uncollected premiums (Exs. E, F, H, A. 62, 65, 77, 80, 92, 95). Similarly, the net valuation portion of deferred and uncollected premiums was shown as an asset on the annual statement forms. (Exs. E, F, H, A. 60, 72, 75, 87, 90, 102). This treatment of deferred and uncollected premiums is required by the NAIC to balance the net valuation portion of deferred and uncollected premiums that is

[3]Under Treasury Regulation §1.6012-2(c) a life insurance company's annual statement on the NAIC form "which shows the reserves used by the company in computing the taxable income reported on its return" must be filed with the company's tax return.

assumed to have been received in the computation of life insurance reserves.[4]

In the computation of a life insurance company's gain from operations, premium income is treated as one item of gross income.[5] A deduction is allowed for the increase (if any) in certain reserves including life insurance reserves.[6]

The computation of a life insurance company's taxable investment income is more complicated. Such computation involves determining an "earnings rate" for each year calculated by dividing "investment yield" (essentially investment income less expenses) by the total of certain assets of the company.[7] The average of the current and the preceding four years' earnings rates (or only the current earnings rate if it is lower than the average)[8] is then multiplied by the "adjusted" current year's life insurance reserves[9] (which are adjusted to

[4]*See* Official Report of the Proceedings of the National Insurance Convention of the United States 68-70 (1871).

[5]Section 809(c)(1).

[6]Section 809(d)(2). A net decrease in reserves is treated as an item of income under Section 809(c)(2).

[7]Section 805(b)(2). The term "investment yield" is defined in Section 804(c) and the term "assets" is defined in Section 805(b)(4). The amount of assets for a particular year is the mean of a life insurance company's assets at the beginning and end of such year (Section 805(b)(2)(B)).

[8]Section 805(b)(1), (2) and (3).

[9]Section 805(a)(1). For purposes of these computations, the amount of life insurance reserves for a given year, before adjustment, is the mean of such reserves (other than pension plan reserves) at the beginning and end of the year (Section 805(c)(1)(A)).

take into account differences between the company's earnings experience and the earnings rates assumed in the computation of reserves)[10] to determine a part of the investment income that is to be allocated to the holders of life insurance policies and hence is not to be subject to tax.[11] A review of this description will reveal that the amount of investment income excluded from tax will vary directly with the amount of life insurance reserves; because of the adjustment of life insurance reserves to take into account earnings experience, there is no simple invariant relationship between the amount of assets included in the computation and the amount of investment income excluded from tax.[12] No proportional relationship between reserves for a particular year and assets for a particular year is required to be maintained in the computation of taxable investment income. To the contrary, the statutory provisions contemplate a number of adjustments in reserves that do not involve the maintenance of any particular proportional relationship or consistency of treatment as between reserves and assets for a particular year.[13]

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[10]Section 805(c)(1). This adjustment is discussed at pages 31-34 *infra*.

[11]To the amount determined as described above, there are added earnings attributed to pension plan reserves (Section 805 (a)(2)) and interest paid by the life insurance company (Section 805(a)(3)). The sum of these items is then divided by the "investment yield" and the resulting percentage (not in excess of 100%) is then multiplied by each item of income to determine the amount of such item allocated to policyholders and therefore not subject to tax. *See* Section 804(a)(1).

[12]*See* pages 30-35 *infra*.

[13]*See* pages 33-35 *infra*.

This case specifically involves the tax treatment of Respondent's deferred and uncollected premiums for the years 1958, 1959 and 1961. The Tax Court found, as stipulated by the parties, that Respondent's reserves, computed on the assumption that deferred and uncollected premiums had been collected, were required by Oklahoma law (Pet. App. A 3a). The Tax Court applied to this case a rule that had been adopted, reluctantly, by the Tax Court in an earlier case to the effect that deferred and uncollected premiums should be included gross in premium income and in assets (Pet. App. A 7a-8a).[14] The Court of Appeals for the Tenth Circuit reversed the Tax Court and ruled that deferred and uncollected premiums should not be included in premium income and should not be included in assets (Pet. App. B 9a).

The questions presented in this case have been the subject of a substantial volume of litigation extending

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[14]The Tax Court in its memorandum opinion in this case cited the 1974 decision of the Tax Court in *Bankers Union Life Ins. Co.*, 62 T.C. 661 (1974). In the latter case, the Tax Court yielded to the decisions of the four Courts of Appeals cited in note 15 *infra*. The Tax Court had originally taken a position consistent with the position of the Respondent in this case in *Western National Life Ins. Co.*, 50 T.C. 285 (1968). This position was later modified by the Tax Court, 51 T.C. 824 (1969), *rev'd*, 432 F.2d 298 (5th Cir. 1970). In the last opinion of the Tax Court on these questions prior to the *Bankers Union* decision, the Tax Court in an opinion of the full court, with two of sixteen judges dissenting, had ruled that at least the loading portion of deferred and uncollected premiums should not be included in premium income and assets. *Western & Southern Life Ins. Co.*, 55 T.C. 1036 (1971), *rev'd*, 460 F.2d 8 (6th Cir. 1972), *cert. denied*, 409 U.S. 1063 (1972).

over the past decade. Five fundamental approaches to these questions have been adopted in the lower courts:

1. Include in premium income and in assets all deferred and uncollected premiums.[15]

2. Include in premium income and in assets deferred and uncollected premiums net of "loading."[16]

3. Include in premium income and in assets deferred and uncollected premiums reduced by the life insurance agents' commissions, state premium taxes and other expenses arising on the receipt of such premiums.[17]

[15]*Franklin Life Ins. Co. v. United States*, 399 F.2d 757 (7th Cir. 1968), *cert. denied*, 393 U.S. 1118 (1969); *Jefferson Standard Life Ins. Co. v. United States*, 408 F.2d 842 (4th Cir. 1969), *cert. denied*, 396 U.S. 828 (1969); *Western National Life Ins. Co. v. Commissioner*, 432 F.2d 298 (5th Cir. 1970); *Western & Southern Life Ins. Co. v. Commissioner*, 460 F.2d 8 (6th Cir. 1972), *cert. denied*, 409 U.S. 1063 (1972); and *Bankers Union Life Ins. Co.*, 62 T.C. 661 (1974).

[16]*Franklin Life Ins. Co. v. United States*, 67-2 U.S.T.C. ¶9515 (S.D. Ill. 1967), *rev'd*, 399 F.2d 757 (7th Cir. 1968), *cert. denied*, 393 U.S. 1118 (1969); *Western National Life Ins. Co.*, 51 T.C. 824 (1969), *rev'd*, 432 F.2d 298 (5th Cir. (1970) (assets only); *Western & Southern Life Ins. Co.*, 55 T.C. 1036 (1971), *rev'd*, 460 F.2d 8 (6th Cir. 1972), *cert. denied*, 409 U.S. 1063 (1972).

[17]The following decisions have allowed deductions for life insurance agents' commissions in the computation of gain from operations: *Great Commonwealth Life Ins. Co. v. United States*, 491 F.2d 109 (5th Cir. 1974); *Federal Life Ins. Co. v. United States*, 527 F.2d 1096 (7th Cir. 1975); *North American Life & Casualty Co. v. Commissioner*, 533 F.2d 1046 (8th Cir. 1976), *aff'g* 63 T.C. 364 (1974); *Midland National Life Ins. Co. v. Commissioner*, 66 T.C. 550 (1976) (premium taxes as well as agents' commissions); *United Life & Accident Ins. Co. v. Commissioner*, 329 F. Supp. 765 (D.N.H. 1971) (expense portion of loading); and *Lincoln National Life Ins. Co. v. United States*, 76-2 U.S.T.C. ¶9772 (Ct. Cl. Trial Judge 1976) (premium taxes as well as agents' commissions). In addition, loading (other than the profit element) was held not includible in assets in *Bankers Life Co. v. United States*, 412 F. Supp. 62 (S.D. Iowa 1976). One district court has allowed a deduction for agents' commissions and state premium taxes relating to deferred and uncollected premiums in the computation of premium income but has denied similar treatment in the computation of assets. *Republic National Life Ins. Co. v. United States*, 77-1 U.S.T.C. ¶9133 (N.D. Tex. 1976).

4. Include no part of deferred and uncollected premiums in premium income and in assets.[18]

5. Include no part of deferred and uncollected premiums in premium income and in assets and reduce life insurance reserves to exclude reserves computed on the assumption that such premiums have been paid.[19]

SUMMARY OF ARGUMENT

Since a life insurance company has no right to receive deferred and uncollected premiums, no part of such premiums should be included in the computation of premium income for a given year. Under normal tax accounting rules an amount is not income for a particular period if the taxpayer has not received and has no right to receive such amount.

Allowance of deductions for increases in life insurance reserves as computed pursuant to state law does not justify the inclusion of deferred and uncollected

[18]*Western National Life Ins. Co.*, 50 T.C. 285 (1968) (assets only), *modified*, 51 T.C. 824 (1969), *rev'd*, 432 F.2d 298 (5th Cir. 1970); the decision of the Court of Appeals for the Tenth Circuit in this case, Pet. App. B 9a.

[19]*Monumental Life Ins. Co. v. United States*, 76-2 U.S.T.C. ¶9787 (Ct. Cl. Trial Judge 1976).

premiums in premium income. There is no requirement in the tax provisions that premium income and life insurance reserves be computed on the basis of the same assumptions and several provisions indicate that changes in life insurance reserves need not be accompanied by adjustments in premium income. The items of deduction and income relating to life insurance reserves and premium income should be treated for tax purposes in the years in which each properly arises under accepted methods of accounting. Normal tax accounting rules do not permit the inclusion in income of any part of deferred and uncollected premiums.

The "loading" portion of deferred and uncollected premiums should not be included in premium income even if the net valuation portion of such premiums were included. This treatment would apply the NAIC annual statement treatment of deferred and uncollected premiums and would be required by Section 818(a) if deferred and uncollected premiums could be included in income under an accepted accounting method. The exclusion or deduction of loading is also necessary to avoid the inclusion in taxable income of amounts that are committed for the payment of expenses arising on the future receipt of deferred and uncollected premiums. In no event could income include these premiums without at least a deduction for such expenses.

Recognition that deferred and uncollected premiums are not properly includible in premium income requires the conclusion that such premiums are likewise not

properly includible in a life insurance company's assets for purposes of computing taxable investment income. As words are ordinarily used the term "asset" would not be applied to amounts that a company has not received and has no right to receive. Moreover, deferred and uncollected premiums should not be included in assets for purposes of computing taxable investment income since deferred and uncollected premiums are not in any sense assets that would be available to yield investment income.

Petitioner is incorrect in arguing that the inclusion of deferred and uncollected premiums in assets is required by any proportional relationship between investment assets and life insurance reserves. In the computation of taxable investment income, the relationships between investment assets and life insurance reserves are complex and demonstrate that Congress did not intend that a proportional relationship between assets and life insurance reserves should guide the treatment of particular items such as deferred and uncollected premiums.

The loading portion of deferred and uncollected premiums should be excluded from assets even if a portion of deferred and uncollected premiums were included. Exclusion of loading is the treatment required by the NAIC annual statement and is also required by the statutory exclusion for assets used in the insurance business. Moreover, the exclusion of loading prevents the overstatement of assets that would arise if deferred

and uncollected premiums were treated as "assets" without any reduction for the expenses that arise as the "assets" are brought into possession. In no event could the expense portion of deferred and uncollected premiums be included in assets.

Applying normal tax accounting standards to exclude deferred and uncollected premiums from premium income and assets does not require any reduction in life insurance reserves. Such reserves, computed pursuant to state law requirements, meet all the requirements for life insurance reserves as set out in Section 801(b). Moreover, any reduction in life insurance reserves as presently computed would be contrary to long-standing practices and would involve a fundamental and adverse change in the computation of life insurance reserves for tax purposes; such a change was clearly not intended by Congress when the present statutory framework for the taxation of life insurance companies was adopted in 1959. The Treasury Department regulation purporting to require a reduction in life insurance reserves if deferred and uncollected premiums are not included gross in premium income and assets either does not support the alternative position advanced by Petitioner with respect to life insurance reserves or is invalid because the regulation exceeds statutory authority.

ARGUMENT

I. NO PART OF DEFERRED AND UNCOLLECTED PREMIUMS SHOULD BE TREATED AS PREMIUM INCOME IN THE COMPUTATION OF A LIFE INSURANCE COMPANY'S UNDERWRITING INCOME.

1. Deferred and uncollected premiums are not includible in premium income under accepted methods of tax accounting.

Deferred and uncollected premiums are not income to a life insurance company for a particular tax year for the simple reason that such premiums have not been received and the life insurance company has no right to receive such premiums. It is a long established and unquestioned principle of tax accounting that amounts are not taxable income in a particular year if a taxpayer has not received and has no right to receive such amounts in that year.

Life insurance companies are required by Section 818(a) to use essentially an accrual method of accounting for tax purposes.[20] Petitioner's regulations specify that "[g]enerally under an accrual method, income is to be included for the taxable year when all the events have occurred which fix the right to receive such income and the amount thereof can be determined with reasonable accuracy." (Treasury Regulations, Section 1.446-1

[20]Section 818(a)(2) authorizes regulations to permit life insurance companies to use combinations of an accrual method and other permitted methods (other than the cash method).

(c)(ii)).[21] *See Spring City Foundry Co. v. Commissioner*, 292 U.S. 182 (1934). Petitioner concedes (Pet. Br. 10) that for each tax year in question Respondent had not received and had no right to receive deferred and uncollected premiums. Thus, under normal tax accounting rules, these deferred and uncollected premiums were not includible in income.[22]

The deduction allowed for increases in reserves does not justify the inclusion of deferred and uncollected premiums in premium income. One of the deductions allowed in computing a life insurance company's gain from operations is the deduction for the net increase in various types of reserves including life insurance

[21]The other fundamental method of accounting used for tax purposes — the cash method — requires basically that income be included when it is actually or constructively received. *See* Treasury Regulations §1.446-1(c)(i); under Section 818(a) the cash method of accounting may not be used by a life insurance company for tax purposes.

[22]The regulations that purportedly implement Section 809(c)(1) exceed statutory authority when they provide that the "gross amount of *all* premiums" "includes advance premiums, *premiums deferred and uncollected and premiums due and unpaid*, deposits, fees, assessments, and consideration in respect of assuming liabilities under contracts not issued by the taxpayer . . . ." (emphasis supplied). (Treasury Regulations §1.809-4(a)(1)). The italicized words in this quotation do not appear in the statute, which provides that among the items taken into account in computing gain from operations is "[t]he gross amount of premiums and other consideration (including advance premiums, deposits, fees, assessments, and consideration in respect of assuming liabilities under contracts not issued by the taxpayer) . . . ." (Section 809(c)(1)).

reserves.[23] Reserves for Respondent's life insurance policies are computed pursuant to requirements of state law on the assumption that all premiums have been paid in advance on the anniversary date of each policy. However, there is no requirement, either stated in the Internal Revenue Code or indicated in the relevant legislative history, to the effect that the computation of life insurance reserves must govern the computation of premium income.

In fact, several provisions authorize changes in life insurance reserves without a corresponding adjustment to premium income. Thus, Section 810(d)(1) provides that, if there is a change in the basis of determining life insurance reserves or other reserves (for example, a voluntary increase in a company's life insurance reserves, called in the industry a "reserve strengthening"), then the effect of the change as to previously outstanding insurance contracts will be spread out over ten years in computing the deduction for increases in reserves.[24] There is no requirement that premium

[23]Section 809(d)(2) authorizes a deduction for the net increase in reserves described in Section 810(c). The latter section lists six items, one of which is life insurance reserves (Section 810(c)(1)). If there is a net decrease in these reserves, the decrease is treated as an item of income under Section 809(c)(2).

[24]Section 810(d)(1) reads as follows:

"(d) ADJUSTMENT FOR CHANGE IN COMPUTING RESERVES. —

(1) IN GENERAL. — If the basis for determining any item referred to in subsection (c) as of the close of any taxable year differs from the basis for such determination as of the close of the preceding taxable year, then so much of the difference between —

income be adjusted in any way to take into account the change in the basis of computing reserves. A second example again showing that no particular relationship must be maintained between life insurance reserves and premium income, is the authorization in Section 818(c) for the revaluation of reserves computed on a preliminary term basis.[25] Although electing to make this revaluation may result in greater deductions for increases in reserves, there is no requirement that the effect of such revaluation on the deduction for increases in reserves must be accompanied by any related change in the

(A) the amount of the item at the close of the taxable year, computed on the new basis, and

(B) the amount of the item at the close of the taxable year, computed on the old basis,

as is attributable to contracts issued before the taxable year shall be taken into account for purposes of this subpart as follows:

(i) if the amount determined under subparagraph (A) exceeds the amount determined under subparagraph (B), 1/10 of such excess shall be taken into account, for each of the succeeding 10 taxable years, as a net increase to which section 809(d)(2) applies; or

(ii) if the amount determined under subparagraph (B) exceeds the amount determined under subparagraph (A), 1/10 of such excess shall be taken into account for each of the 10 succeeding taxable years, as a net decrease to which section 809(c)(2) applies."

[25]Section 818(c) as in effect for the tax years here at issue reads as follows:

"(c) LIFE INSURANCE RESERVES COMPUTED ON PRELIMINARY TERM BASIS. — For purposes of this part (other than section 801), at the election of the taxpayer the amount taken into account as life insurance reserves with respect to contracts for which such reserves are computed on a preliminary term basis may be determined on either of the following bases:

amount of premium income attributed to the company making such election.

The fact that required methods of computing reserves may result in a particular deduction for a life insurance company in a given tax year thus does not under applicable Internal Revenue Code provisions require a corresponding and offsetting increase in premium income. This result in the case of life insurance companies is consistent with the well-established

(1) EXACT REVALUATION. — As if the reserves for all such contracts had been computed on a net level premium basis (using the same mortality assumptions and interest rates for both the preliminary term basis and the net level premium basis).

(2) APPROXIMATE REVALUATION. — The amount computed without regard to this subsection —

(A) increased by $21 per $1,000 of insurance in force (other than term insurance) under such contracts, less 2.1 percent of reserves under such contracts, and

(B) increased by $5 per $1,000 of term insurance in force under such contracts which at the time of issuance cover a period of more than 15 years, less 0.5 percent of reserves under such contracts.

If the taxpayer makes an election under either paragraph (1) or (2) for any taxable year, the basis adopted shall be adhered to in making the computations under this part (other than section 801) for the taxable year and all subsequent taxable years unless a change in the basis of computing such reserves is approved by the Secretary or his delegate, except that if, pursuant to an election made for a taxable year beginning in 1958, the basis adopted is the basis provided in paragraph (2), the taxpayer may adopt the basis provided by paragraph (1) for its first taxable year beginning after 1958."

The phrase "or his delegate" following the word "Secretary" was deleted by the Tax Reform Act of 1976, Pub. L. No. 94-455, §1906(b)(13)(A). Under Section 810(d)(3), an election under Section 818(c) is not treated as a change to which Section 810(d)(1) applies. *See* note 24 *supra*.

principle that a deduction is to be allowed for the year in which it arises and related income is to be taxed in the year in which it is received or accrued even if the deduction and the income do not fall in the same tax year. Thus in the early case of *Burnet v. Sanford & Brooks Co.*, 282 U.S. 359 (1931), this Court ruled that, in the absence of specific authorization, a taxpayer may not offset losses in one tax year against income from the same transaction in another year. The principles announced in the *Sanford & Brooks* case have been consistently applied by this Court since then. *See Guaranty Trust Co. v. Commissioner*, 303 U.S. 493 (1938); *Security Flour Mills Co. v. Commissioner*, 321 U.S. 281 (1944). The cases of *American Automobile Association v. United States*, 367 U.S. 687 (1961) and *Schlude v. Commissioner*, 372 U.S. 128 (1963), both relating to the tax treatment of advance payments for services, particularly illustrate these principles. In these two cases this Court ruled that income should be taxable in the year received notwithstanding the fact that deductions involved in earning such income were to be taken into account in subsequent tax periods. The fundamental principles applied in the *American Automobile Association* and *Schlude* cases should apply equally whether income precedes deduction or whether, as in this case, the deduction may be viewed as preceding income.

2. "Loading" with respect to deferred and uncollected premiums should not be included in premium

income even if a portion of deferred and uncollected premiums were included in premium income.

If the arguments advanced above were rejected and it were determined that some portion of deferred and uncollected premiums must be included in premium income, additional reasons exist for the exclusion or deduction from premium income of that part of deferred and uncollected premiums which is not taken into account in computing life insurance reserves.

In the annual statement form prepared by the National Association of Insurance Commissioners, deferred and uncollected premiums are included in income and a deduction for loading is allowed. If the inclusion of any part of deferred and uncollected premiums could be deemed consistent with methods of tax accounting permitted for life insurance companies, then an exclusion (or deduction) for loading would appear to be required for tax purposes as it is required in the NAIC annual statements.

Section 818(a), which provides general rules as to methods of tax accounting for life insurance companies, requires that the accounting treatment specified in the NAIC annual statement is to be used when not inconsistent with an accrual method of accounting or a combination of an accrual method with another approved method (other than the cash method) as

permitted by regulations.[26] Should the inclusion of any part of deferred and uncollected premiums in premium income be deemed consistent with an accepted method of accounting as authorized by Section 818(a), the reference in Section 818(a) to the NAIC annual statement would require that no more than deferred and uncollected premiums net of loading be included in premium income.[27]

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[26]Section 818(a) as in effect for the tax years here at issue reads as follows:

"(a) METHOD OF ACCOUNTING. — All computations entering into the determination of the taxes imposed by this part shall be made —

(1) under an accrual method of accounting, or

(2) to the extent permitted under regulations prescribed by the Secretary or his delegate, under a combination of an accrual method of accounting with any other method permitted by this chapter (other than the cash receipts and disbursements method).

Except as provided in the preceding sentence, all such computations shall be made in a manner consistent with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners."

The phrase "or his delegate" in paragraph (2) was deleted by the Tax Reform Act of 1976, Pub. L. No. 94-455, §1906(b)(13)(A).

[27]The NAIC annual statement treatment could be applied for tax purposes by allowing a deduction for loading with respect to deferred and uncollected premiums under the general provision authorizing "all other deductions allowed under this subtitle for purposes of computing taxable income to the extent not allowed as deductions in computing investment yield." (Section 809(d)(11), formerly Section 809(d)(12) until redesignated by the Tax Reform Act of 1976, Pub. L. No. 94-455, §1901(a)(98)). Alternatively, the loading portion of deferred and uncollected premiums could be excluded from gross premiums under Section 809(c)(1); the Tax Court employed the latter approach in *Western & Southern Life Ins. Co., supra* note 16.

Failing to exclude at least loading from premium income would entail the anomalous result that a life insurance company would have greater premium income for tax purposes when premiums were deferred and uncollected than when they were collected. For example, assume two life insurance companies, A and B, identical in all respects except that $100 of premium income of A is deferred and uncollected whereas the equivalent $100 of premium income is received by B before the end of the year. Assume further that loading on the premiums in question is $20 and that such loading just covers agents' commissions, state premium taxes, and other expenses arising on receipt of such premiums. If deferred and uncollected premiums are included in taxable income but no exclusion or deduction is allowed for loading, Company A would show, with respect to the deferred and uncollected premiums, premium income of $100. In contrast, Company B would show premium income with respect to equivalent premiums of only $80 because Company B would be able to claim deductions for the $20 of expenses incurred in receiving the premiums in question. It is an absurd result for a life insurance company, or indeed for any taxpayer to be deemed to have a larger amount of income in a particular year if the income is not received than would have been the case if the income had been received.

The results of including gross deferred and uncollected premiums in premium income as described above would be directly contrary to expressed Congressional

intent in the case of small, growing life insurance companies. For a small but growing life insurance company, the amount of deferred and uncollected premiums will in most cases be relatively substantial and loading (particularly the portion allocable to life insurance agents' commissions on new policies) will be a large part of such deferred and uncollected premiums. In such circumstances, taxing deferred and uncollected premiums without excluding or deducting loading would require payment of substantial taxes on amounts that had not been received and would never be received as net income by the small company. Such a result is directly contrary to expressed Congressional intent that small companies should not show inflated figures for gain from operations. Thus, the Senate Finance Committee Report on the 1959 legislation indicates Congressional expectations as to the premium income of small, growing life insurance companies as follows:

> ". . . for many other companies, particularly small, new and growing life insurance companies, having underwriting losses rather than gains, the inclusion of this underwriting element in the tax base means a lesser, rather than a greater tax. The small, new, and growing life insurance companies are particularly likely to have underwriting losses because of the initial costs which they incur (such as agents' commissions) in placing new policies on their books. Both the House and your committee's bill are particularly liberal in these cases since they allow the offset of these underwriting losses in full against taxable investment income (subject to certain restrictions as to the deduction of policyholder dividends, etc.) and

> do not require the 50 percent reduction in such losses which would be made if they were gains."[28]

This expectation could not be fully realized if deferred and uncollected premiums including loading were held to be premium income for small but growing companies.

The fact that loading may cover not only expenses of acquiring deferred and uncollected premiums but also profit in the case of stock companies and dividends in the case of participating policies does not justify including loading on deferred and uncollected premiums in premium income. In the first place the profit or dividend element of loading will often be only a small part of loading. Moreover, any part of loading that may be deemed to be profit should not be included in premium income since such "profit" is only potential and has not yet been earned. As for dividends to policyholders that might in some cases be deemed to be a part of loading, such dividends would be deductible (subject to overall limits)[29] in the computation of gain from operations; it would therefore appear appropriate to include the dividend portion of loading in premium income in the year that the loading is received and is

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[28] S. Rep. No. 291, 86th Cong., 1st Sess. 7 (1959).

[29] A deduction is allowed for dividends to policyholders under Section 809(d)(3). This deduction and deductions under Sections 809(d)(5) and 809(d)(6) (relating to certain nonparticipating insurance contracts and certain accident and health and group life insurance contracts) taken together are limited under Section 809(f) to $250,000 plus the amount by which gain from operations (computed without these deductions) exceeds taxable investment income.

available to pay dividends to policyholders rather than in the prior year.

Thus, if any amount of deferred and uncollected premiums is to be included in a life insurance company's premium income, the loading portion of deferred and uncollected premiums should in any event be excluded or deducted.[30] It should be noted that the United States Tax Court reached precisely this conclusion in an opinion that was reviewed by the full sixteen-member court and was supported by fourteen of the sixteen judges. *See Western & Southern Life Ins. Co.*, 55 T.C. 1036 (1971), *rev'd*, 460 F.2d 8 (6th Cir. 1972), *cert. denied*, 409 U.S. 1063 (1972).

3. In no event should deferred and uncollected premiums be included in premium income without at least a deduction for the expenses of acquiring such premiums.

If this Court were to reject the arguments that deferred and uncollected premiums may not be included in premium income and that in any event loading may not be included, a deduction should nonethe-

[30]Such a result would even appear to be in accord with Petitioner's assertion, which Respondent believes to be erroneous, that assumptions used in the computation of life insurance reserves must be used in the computation of premium income. The only assumption as to deferred and uncollected premiums made in the computation of life insurance reserves is that the net valuation portion of deferred and uncollected premiums has been received by year-end; no assumption is made as to the receipt of loading. Hence there is no occasion even on Petitioner's theory to assume the receipt of loading in the computation of premium income.

less be allowed for the expenses that are necessarily incurred by a life insurance company in the receipt of deferred and uncollected premiums. The same contrary-to-fact assumption that would justify the inclusion of deferred and uncollected premiums in income should also be grounds for allowing the concomitant deductions. Such deductions would thus be allowed for life insurance agents' commissions, state premium taxes, and any other direct expenses of acquisition that might be shown in a particular case.[31] It is noteworthy that even those courts that have required the inclusion of deferred and uncollected premiums in premium income without any exclusion or deduction for loading have permitted a deduction for certain expenses related to deferred and uncollected premiums in all reported cases in which the question has been presented.[32]

II. NO PART OF DEFERRED AND UNCOLLECTED PREMIUMS SHOULD BE INCLUDED IN ASSETS FOR PURPOSES OF COMPUTING A LIFE INSURANCE COMPANY'S TAXABLE INVESTMENT INCOME.

1. Deferred and uncollected premiums are not assets that may be included in any amount in computing a life insurance company's earnings rate.

[31]If this Court were to rule that deferred and uncollected premiums should be included in premium income except for the expenses of acquiring such premiums, it would be necessary for this case to be remanded to the Tax Court for findings with respect to the amount of such expenses. *Cf. Commissioner v. Gordon*, 391 U.S. 83, 95 n.8 (1968).

[32]These decisions are cited in note 17 *supra*.

Petitioner concedes (Pet. Br. 10) that Respondent had no right to receive any part of deferred and uncollected premiums at the end of any tax year. If these premiums were not ultimately paid, the only consequences would have been that the life insurance in question would lapse after a specified period. As words are normally used, the term "asset" would not be applied to a possibility of future payment to a person who had no right to receive such payment. Hence, deferred and uncollected premiums should not be included as assets in the computation of a life insurance company's taxable investment income.[33]

The exclusion of deferred and uncollected premiums from the computation of taxable investment income is thus fully justified by the fact that these premiums are simply not assets in any sense.[34] However, such exclusion would also be required even if deferred and uncollected premiums were deemed to be in some sense assets in view of the fact that deferred and uncollected premiums do not constitute an asset from which invest-

[33]Generally words in tax provisions are interpreted to have their usual non-tax meanings. *See Malat v. Riddell*, 383 U.S. 569 (1966).

[34]It is noteworthy in this regard that Section 805(b)(4), which defines the term "assets" as used in the provisions governing the computation of taxable investment income, defines the term to refer only to assets "of the company . . . ." Since a life insurance company has no right to receive deferred and uncollected premiums, such premiums are certainly not in any sense assets "of the company". Hence the inclusion of deferred and uncollected premiums in the computation of taxable investment income is not authorized by the literal terms of the statute even if a very expansive scope were accorded the term "assets."

ment earnings might be derived.[35] If an asset at all, deferred and uncollected premiums are a notional asset that is used in the conduct of the insurance business. Such an asset would be excluded from the computation of taxable investment income by Section 805(b)(4), which specifies the assets that are to be used in computing a life insurance company's earnings rates. Section 805 (b)(4) specifically excludes from the computation of earnings rates "real and personal property (excluding money) used by [the company] in carrying on an insurance trade or business."

Treating deferred and uncollected premiums as not includible in assets used in the computation of earnings rates is consistent with evident Congressional intent that the earnings rate on a life insurance company's investment assets should be used in determining the policyholders' share of items of investment income. Thus, the Subcommittee on Internal Revenue Taxation of the House Committee on Ways and Means, in outlining the computation of a company's earnings rate under an earlier version of the provisions ultimately adopted in 1959, described the assets used in the computation as follows:

[35]Frequently a somewhat higher premium is charged when premiums are not paid annually and in advance. However, the higher premium offsets higher administrative costs involved in deferred and uncollected premiums and no part of the higher premium is considered investment income. *See* J. Maclean, *Life Insurance*, 107-08 (9th ed. 1962).

> "'Assets' in effect are defined as those held for investment purposes or for gain in a trade or business other than the insurance business."[36]

In the course of the further work on the provisions that were ultimately enacted in 1959, there was no change in this concept. The Report of the Senate Finance Committee on the provisions ultimately enacted described the computation of the policyholders' share of investment income in terms of the application of each company's average "investment earnings rate".[37] Indeed, the concept of an "earnings rate" would itself appear to carry with it the concept that such rate is to be determined by dividing investment earnings by the assets available to yield such earnings. Thus, the legislative history and the statutory language both support the conclusion that deferred and uncollected premiums, which yield no investment income, should not in any case be included in assets for purposes of computing a life insurance company's earnings rates.[38]

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[36]Subcommittee on Internal Revenue Taxation, House Committee on Ways and Means, *Report on the Taxation of Life Insurance Companies* 12 (December 31, 1958).

[37]S. Rep. No. 291, 86th Cong., 1st Sess. 5 (1959). In the discussion of the term "property used in carrying on an insurance business" in connection with provisions relating to capital gains, the Report contrasts property used in the insurance business with "so-called investment assets from which interest, rents, dividends, and royalties are derived. . . ." S. Rep. No. 291, 86th Cong., 1st Sess. 70 (1959).

[38]If deferred and uncollected premiums could be treated as assets in any sense, they would under Section 805(b)(4) add nothing to the total of a life insurance company's assets for purposes of computing earnings rates since such "assets" would have a zero adjusted basis. The second sentence of Section 805(b)(4) directs that the amount attributable to any asset other than real property or stock is to be "the adjusted basis of such asset for purposes of determining gain on sale or other disposition." The unadjusted basis of an asset is cost under Section 1012 and no adjustments under Section 1016 are relevant in these circumstances. Property that is being received as income has a cost basis to the recipient at any point in time no greater than the amount that must have been included in the recipient's income to that point. *Cf. Bennet v. Helvering*, 137 F.2d 537 (2d Cir. 1943). As was shown at pages 13-14 above, under normal tax accounting methods, no part of deferred and uncollected premiums may be included in a life insurance company's taxable income for a given year; hence, if deferred and uncollected premiums could be considered to be an asset of a life insurance company, the adjusted basis of such deferred and uncollected premiums "asset" at year-end would be zero.

The fact that life insurance reserves are computed on the assumption that deferred and uncollected premiums have been received does not justify including such premiums in assets. Reserves for Respondent's life insurance policies are computed on the assumption that all premiums are paid annually in advance on the anniversary date of each policy. As is discussed more fully at pages 40-46 below, this treatment was adopted over one hundred years ago and has been applied consistently since that time. The reserves thus computed are required by state law and meet all the requirements for life insurance reserves set forth in Section 801(b). But contrary to the position taken by Petitioner, the computation of life insurance reserves pursuant to state law does not require that deferred and uncollected premiums be treated as investment assets.

The Brief for the Petitioner sets forth several times a simple ratio — $\frac{\text{Reserves}}{\text{Assets}}$ — as a proposed guide to the treatment of deferred and uncollected premiums. As is shown below, this ratio cannot be derived from the statutory provisions. However, even if this ratio were a part of the law, such ratio would give no guidance as to what is to be included in "Reserves" and in "Assets". Petitioner begs the question by assuming a certain initial content for "Reserves" and "Assets" and then arguing that a "change" in one element must be accompanied by a "change" in the other element.

Petitioner's argument from the $\frac{\text{Reserves}}{\text{Assets}}$ ratio must also be rejected because the suggested ratio does not appear in the tax provisions applicable to life insurance companies and more importantly cannot be derived from the statutory provisions. Petitioner's equation (2) (at Pet. Br. 6 and 40), is as follows:

"(2) Earnings Rate x Reserves = Tax Exclusion". This equation should however read as follows to reflect accurately the terms of Section 805:

Lower of Current or Five-Year Average Earnings Rate	x	Adjusted Current Reserves	=	Tax Exclusion[39]

[39]Petitioner notes these complexities in Pet. Br. 5-6 nn.5, 6 and 39 nn.28, 29; however, the formulae and discussion in the text of the Brief for the Petitioner, at Pet. Br. 6-7, 40-41, do not reflect these complexities and hence the formulae and discussion are in Respondent's view misleading. An additional complexity

The adjusted reserves figure is obtained under Section 805(c)(1) (the "Menge Formula"), which basically provides that the reserves are to be decreased 10% for each one percentage point by which the company's earnings experience (the lower of current or five-year average) exceeds the average rate of interest assumed in calculating reserves (if the average rate of interest assumed in computing reserves exceeds the earnings experience then reserves are to be increased on the same basis).

Because of the operation of the Menge Formula, there is no simple proportional relationship between life insurance reserves and assets. The relationship between life insurance reserves and assets for a given year is never one of simple proportionality but the relationship is most direct when the current earnings rate rather than a five-year average rate is used in the computation (this is the case when the current earnings rate is lower than the five-year average). However, even in this less complex case, the proposed ratio of reserves to assets does not explain the actual relationship since changes in assets cause changes in the current earnings rate that in turn cause changes in the adjustment to reserves under the Menge Formula. If a proportionality existed, the Tax Exclusion would vary

is that the "Tax Exclusion" shown is only the part of "policy and other contract liability requirements" relating to life insurance reserves other than pension plan reserves. *See* Sections 805(a), 805(c)(1); Pet. Br. 40 n.30.

directly with the amount of "Reserves" and inversely with the amount of "Assets" as asserted by the Petitioner (Pet. Br. 41). But, although a direct proportional relationship to the Tax Exclusion does exist in the case of life insurance reserves, no inverse proportional relationship exists between assets and the Tax Exclusion. At certain realistic earnings rates, an increase in assets will result in an increase rather than a decrease in the Tax Exclusion.[40] Such a result is totally inconsistent with the proportional relationship asserted by Petitioner.

In cases where the current earnings rate is higher than the five-year average earnings rate of a life insurance company, the five-year average earnings rate is employed under Section 805(b)(1) and the relationship between life insurance reserves and assets for a given year is even more complex. When a five-year average earnings rate is used, the equations presented by Petitioner would be restated as follows:

(1) Five-Year Average of $\frac{\text{Investment Yield}}{\text{Assets}}$ = Adjusted Earnings Rate

(2) Adjusted Earnings Rate X Current Reserves (Adjusted under Menge Formula) = Tax Exclusion

[40]For example, such result would occur when the average interest rate assumed in a life insurance company's computation of reserves was 3% and the current earnings rate used in the computation of the Tax Exclusion was 7%. More generally such result will arise in any case where the earnings rate used in the computation is greater than five percent plus one-half the average interest rate assumed in the computation of reserves. *See* Fraser, *Income Tax and Reserve Valuation*, The Actuary, November 1972, at 4.

(3) Five-Year Average of $\frac{\text{Investment Yield}}{\text{Assets}}$ X Current Reserves (Adjusted under Menge Formula) = Tax Exclusion

or

Weighted[41] Five-Year Average Investment Yield X $\frac{\text{Current Reserves (Adjusted under Menge Formula)}}{\text{Five-Year Average Assets}}$ = Tax Exclusion

Thus, in the common circumstance of generally rising investment earnings rates from year to year, the statutory scheme for computing taxable investment income requires if anything a comparison between the current year's life insurance reserves (as adjusted to take into account earnings experience over five years) and a figure for assets that would reflect only in a five-year average any deferred and uncollected premiums that might under Petitioner's theory be included in assets for the current year.

Further support for the conclusion that, in the computation of taxable investment income, reserves and assets should be computed separately (and without the application in one computation of assumptions used in the other computation) is found in the several tax

[41]Because of the use in the tax provisions of a simple average of earnings rates for five years, equation (3) may be restated in terms of a relationship between Current Reserves (Adjusted under Menge Formula) and Five-Year Average Assets only if the figure for the Five-Year Average Investment Yield is calculated on a "weighted" basis giving proportionally greater or lesser weight to investment yield for each year as the figure for average assets exceeds or is less than the actual figure for assets for the particular year.

provisions requiring or authorizing adjustments in reserves. The only specific statutory provision calling for a relation between life insurance reserves and assets of a life insurance company is the "Menge Formula" discussed above; such formula requires an adjustment in reserves to take into account a company's earnings experience on its investment assets and as shown above the formula in no sense mandates any simple, proportional relationship between life insurance reserves and assets. In addition, in Section 806(b) it is specifically recognized that there may be changes in the basis of computing life insurance reserves for purposes of computing taxable investment income; such section specifies that any such change is to be applied at the beginning of the next taxable year but this provision requires no change in a life insurance company's assets to accompany the change in the computation of reserves.[42] The same lack of requirement for any adjustment in assets to correspond to adjustments in life insurance reserves is found with respect to the authorization in Section 818(c) for an increase in reserves that have been computed on a preliminary term

[42]Section 806(b) reads as follows:

"CHANGE OF BASIS IN COMPUTING RESERVES. — If the basis for determining the amount of any item referred to in section 810(c) as of the close of the taxable year differs from the basis for such determination as of the beginning of the taxable year, then for purposes of this subpart the amount of such item —

(1) as of the close of the taxable year shall be computed on the old basis, and

(2) as of the beginning of the next taxable year shall be computed on the new basis."

In the case of certain transfers of liabilities to another taxpayer, Section 806(a) requires adjustments, on a daily basis, to a life insurance company's life insurance reserves and assets to reflect the amounts transferred.

basis[43]; such authorization for an adjustment in reserves imposes no requirement that there be any adjustment in assets.

Thus, there is no statutory support for Petitioner's position that the inclusion of an amount in reserves requires the inclusion of some related amount in assets.[44] There is no requirement for such treatment stated in the provisions applicable to life insurance companies and there is nothing in the legislative history of the tax provisions to indicate that Congress intended for such an approach to be imposed on life insurance companies. In sum, nothing whatever indicates that Congress intended that a life insurance company should have imputed to it nonexistent assets merely because

[43]*See* note 25 *supra*.

[44]Of course, even if Petitioner were correct as to the existence of some simple proportional relationship to be maintained between life insurance reserves and assets, Petitioner would still need to show that the relation between the net valuation portion of deferred and uncollected premiums and gross deferred and uncollected premiums has any conceptual relationship to the alleged relation between reserves and assets. Such conceptual relationship has not been shown by Petitioner and would not appear to exist since the difference between the net valuation portion and gross deferred and uncollected premiums is loading, which does not have any necessary invariant relationship to life insurance reserves or to assets.

of a life insurance company's method of computing its life insurance reserves under applicable state law.

2. "Loading" with respect to deferred and uncollected premiums should not be included in assets even if a portion of deferred and uncollected premiums were included in assets.

If the arguments advanced above were rejected and it were determined that some portion of deferred and uncollected premiums must be included in assets, in any event the loading with respect to such premiums should not be included in investment assets. The additional reasons for excluding the "loading" portion of deferred and uncollected premiums from assets essentially parallel the reasons given at pages 18-24 above for the exclusion of "loading" from premium income.

The exclusion of loading from assets as required in the NAIC annual statement form should be applied for tax purposes if any part of deferred and uncollected premiums is to be included in assets for purposes of the computation of taxable investment income. Such treatment would appear to be required by Section 818(a), which as noted above requires computations to be made in a manner consistent with the NAIC annual statement treatment except when the NAIC annual statement deviates fundamentally from the accrual method of accounting or a combination of methods of accounting permitted by regulations. Respondent's principal position is that under an accrual or any other permitted method of accounting no part of deferred and uncollected premiums may be included in assets. However, if the inclusion of deferred and uncollected premiums in assets can be deemed to be permitted by Section 818(a), then that section would require application of the NAIC annual statement approach, which would include in assets deferred and uncollected premiums net of loading.[45]

The exclusion of loading from assets used in the computation of earnings rates is also required by the statutory exclusion from such assets of personal property other than money used by a life insurance company in carrying on the insurance business (Section 805(b)(4)). If the loading portion of deferred and uncollected premiums could in any sense be viewed as an asset, loading must necessarily be viewed, not as an investment asset, but rather as an asset inextricably bound up with carrying on the insurance business.[46] Hence, even if loading were an asset in an accounting

[45]This treatment would even seem to be in accord with Petitioner's assertion, which Respondent believes to be incorrect, that assumptions used in the computation of life insurance reserves must be used in the computation of assets. The only assumption as to deferred and uncollected premiums made in the computation of life insurance reserves is that the net valuation portion of such premiums has been received by year-end; the receipt of loading is not assumed. Hence even if all assumptions involved in the computation of life insurance reserves were to be automatically applied to all asset computations, no more than the net valuation portion of deferred and uncollected premiums could be included in assets.

[46]*Cf. Bankers Life Co. v. United States*, 412 F.Supp. 62 (S.D. Iowa 1976), in which the court ruled that all loading except any margin for profit was property used in the insurance business which should be excluded from the computation of earnings rates.

sense, it would not be an asset under Section 805(b)(4) for purposes of computing taxable investment income.[47]

A final reason for not including the loading portion of deferred and uncollected premiums in assets for purposes of computing a life insurance company's earnings rates is that the inclusion of loading would cause a life insurance company to show greater assets for tax purposes to the extent that premiums were deferred and uncollected rather than received by the end of a particular tax year. The tax provisions should not be interpreted to yield such an irrational result.[48]

3. In no event should deferred and uncollected premiums be included in assets without at least a reduction for the expenses of bringing such premiums into possession.

[47]Moreover, as the full exclusion of deferred and uncollected premiums from income would entail a like exclusion from assets (see note 38 *supra*), so the exclusion of the loading portion of such premiums from income should entail the exclusion of such loading from assets. For reasons set out at pages 18-24 above, if any part of deferred and uncollected premiums were included in premium income the loading portion should in any event be excluded from income. Thus, if loading were an asset at all, it would have a zero adjusted basis because it would not be included in taxable income; loading would therefore under Section 805(b)(4) be included at a zero amount in the computation of a life insurance company's earnings rate.

[48]Of course, should deferred and uncollected premiums net of loading be included in assets, assets would be greater if particular premiums were actually collected before year-end to the extent (if any) that loading exceeded the expenses of collection. Such result does not however appear unreasonable in view of the fact that a life insurance company would in fact have greater assets if premiums were collected rather than remaining uncollected at the end of the year.

If, in spite of the arguments advanced above, deferred and uncollected premiums including the loading portion were held to be includible in assets for purposes of computing earnings rates, life insurance companies should in any event be allowed to reduce the deferred and uncollected premiums "asset" by the expenses that must be incurred to bring this "asset" into possession. Such an adjustment would at least avoid the imputation to life insurance companies of greater assets at year-end when premiums are uncollected than when they are actually received.[49]

III. THE EXCLUSION OF DEFERRED AND UNCOLLECTED PREMIUMS FROM PREMIUM INCOME AND FROM ASSETS DOES NOT JUSTIFY ANY REDUCTION IN LIFE INSURANCE RESERVES.

Petitioner has taken the alternative position that if deferred and uncollected premiums are not included in full in premium income and assets, then life insurance reserves must be reduced. For the reasons stated below, such proposed reduction in reserves would be unjustified and would be contrary to expressed Congressional intent with respect to the effect of the present tax provisions on life insurance reserves.

1. All reserves required by law for life insurance policies as to which there are deferred and uncollected

[49]As was indicated in note 31 *supra*, a remand to the Tax Court would be necessary if this Court were to rule that deferred and uncollected premiums net of expenses must be included in assets for purposes of computing earnings rates.

premiums are "life insurance reserves" under Section 801(b).

Life insurance companies including Respondent have for many years computed their reserves as required by state law on the assumption that premiums as to all outstanding policies at the end of a particular year have been paid in advance on the anniversary date of each policy. Reserves as so computed are reported each year on the NAIC annual statements and are of prime concern to state regulatory authorities in the protection of policyholders. As Petitioner points out (Pet. Br. 34-36), the present method of computing reserves was authoritatively adopted initially at the First Session of the National Insurance Convention in 1871 and has been employed consistently since that time.

Life insurance reserves as presently calculated meet all the requirements for life insurance reserves set forth in Section 801(b) of the Internal Revenue Code. They are "computed or estimated on the basis of recognized mortality or morbidity tables and assumed rates of interest" (Section 801(b)(1)(A)). They are amounts "which are set aside to mature or liquidate, either by payment or reinsurance, future unaccrued claims arising from life insurance, annuity, and noncancellable health and accident insurance contracts (including life insurance or annuity contracts combined with noncancellable health and accident insurance) involving, at the time with respect to which the reserve is com-

puted, life, health, or accident contingencies." (Section 801(b)(1)(B)). And they are "required by law" (Section 801(b)(2)).[50] In addition, the computation of reserves on the assumption that the net valuation portions of deferred and uncollected premiums have been paid is consistent with the NAIC annual statement computation mandated by Section 818(a).

2. To exclude reserves relating to deferred and uncollected premiums from life insurance reserves for tax purposes would create a fundamental change in the tax treatment of life insurance companies contrary to the intent of Congress in the 1959 enactment of the present tax provisions.

When the present tax treatment of life insurance companies was adopted by Congress in 1959, the reports of the House Ways and Means Committee and the

[50]It should be noted that in the absence of specific statutory authority for the treatment of life insurance reserves, such reserves would not be given tax effect since they are set aside to liquidate future unaccrued claims. *See Brown v. Helvering*, 291 U.S. 193 (1934). The significance of the specific statutory treatment of life insurance reserves is highlighted by the fact that the original version of the Internal Revenue Code of 1954, ch. 736, 68A Stat. 3 (1954), contained a provision denominated Section 462, 68A Stat. 158, that allowed to taxpayers generally a new deduction for additions to reserves for certain estimated expenses. This provision allowed a deduction where none had been allowed before. *See* H.R. Rep. No. 1622, 83d Cong., 2d Sess. 63-64 (1954); S. Rep. No. 1337, 83d Cong., 2d Sess. 49 (1954). Because of the unexpectedly heavy adverse revenue effect of this provision it was repealed with retroactive effect by Pub. L. No. 74, 69 Stat. 134 (1955). *See* H.R. Rep. No. 293, 84th Cong., 1st Sess. (1955); S. Rep. No. 372, 84th Cong., 1st Sess. (1955).

Senate Finance Committee on the legislation[51] gave no indication whatever that Congress intended any change in the traditional computation of life insurance reserves except as to specific issues which were thoroughly discussed in the committee reports--for instance, the "Menge Formula" relating earnings experience to earnings assumed in the computation of reserves, the revaluation of reserves computed on a preliminary term basis authorized by Section 818(c), and the exclusion from life insurance reserves of "deficiency reserves".[52] The term "reserves" is used hundreds of times in the committee reports on the 1959 legislation without the slightest hint that any fundamental change was intended in the long-accepted treatment of life insurance reserves under earlier tax provisions. The committee reports specifically state that the definition of life insurance reserves is unchanged from prior law except for refinements not here pertinent.[53] Moreover,

[51] H.R. Rep. No. 34, 86th Cong., 1st Sess. (1959); S. Rep. No. 291, 86th Cong., 1st Sess. (1959).

[52] *See* H.R. Rep. No. 34, 86th Cong., 1st Sess. 11, 17-18, 22, 26, 42-43 (1959); S. Rep. No. 291, 86th Cong., 1st Sess. 10, 15-16, 19, 30-32, 42, 73-74 (1959).

[53] H.R. Rep. No. 34, 86th Cong., 1st Sess. 22 (1959); S. Rep. No. 291, 86th Cong., 1st Sess. 42 (1959). Thus the Senate Finance Committee Report, in explaining the definition of "life insurance reserves" states that "[t]his subsection, as in the House bill, defines life insurance reserves for purposes of part I of subchapter L of chapter 1 of the 1954 Code. In general, the definition is the same as that contained in Section 801(b) of the House bill and existing law." The explanation then goes on to discuss the treatment of reserves relating to policies issued by certain voluntary employees' beneficiary associations and by assessment life insurance companies, and the exclusion of "deficiency reserves" from life insurance reserves. S. Rep. No. 291, 86th Cong., 1st Sess. 42 (1959).

the possibility that the provisions enacted in 1959 might be interpreted to control life insurance reserves computed in accord with state law requirements was specifically rejected on the floor of the House of Representatives by Congressman Mills, the Chairman of the House Committee on Ways and Means.[54]

The absence of any evidence of an intention on the part of Congress to change the basic treatment of life insurance reserves with the enactment of the Life Insurance Company Income Tax Act of 1959 is of funda-

[54] "Mr. Simpson of Pennsylvania. . . . There is a matter of great importance on which I am sure the gentleman from Arkansas [Mr. Milis], the chairman, holds an opinion which coincides with mine; namely: that the committee has no intention of placing jurisdiction of the management of insurance company reserves within the hands or powers of the Commissioner of Internal Revenue. Specifically, I refer to section 806 of the bill before us. This section of the bill relates to a change of basis in computing reserves. I ask whether it is intended that permission to change the basis requires approval of the Secretary of the Treasury or his delegate as provided by section 446(e) of the code?

"Mr. Mills. Certainly, it is not the intention of the chairman that that be required. I think I can speak without fear of contradiction and say it is not the intention of the committee. We are trying to preserve as best we can in this bill the management of this industry in the hands of the State regulatory agencies and not to change in any way that situation so as to turn over to the Commissioner of Internal Revenue, the Secretary of the Treasury, or anyone else in Washington the regulatory authority.

"Mr. Simpson of Pennsylvania. I thank the chairman.

"Mr. Mills. We are endeavoring to tax what we think is the true income of the insurance companies.

"Mr. Simpson of Pennsylvania. I thank the gentleman, and say that I agree with him."

105 Cong. Rec. 2576-77 (1959) (proceedings on February 18, 1959).

mental importance since there is no question that the inclusion of reserves on all policies in force including those with respect to which there are deferred and uncollected premiums had been accepted for tax purposes for approximately forty years when the 1959 provisions were adopted. From 1921 to 1941, the amount of each life insurance company's reserves was an important factor in determining a company's federal income tax liabilities (generally a specified earnings rate was applied to each life insurance company's life insurance reserves to determine that company's deduction for policyholder requirements in computing taxable investment income).[55] For the years from 1942 to 1950, total reserves for the life insurance industry, including reserves for policies as to which there were deferred and uncollected premiums, played a part in computing industry-wide reserve interest requirements used in determining the portion of investment income subject to tax.[56] From 1951 to 1957, the amount of life insurance reserves ceased to have an important place in the com-

[55]*See* Revenue Act of 1921, ch. 136, §§242-247, 42 Stat. 227, 261-64 (1921); Revenue Act of 1924, ch. 234, §245(a), 43 Stat. 253, 289 (1924); Revenue Act of 1926, ch. 27, §245(a), 44 Stat. 9, 47 (1926); Revenue Act of 1928, ch. 852, §203(a), 45 Stat. 791, 842 (1928); Revenue Act of 1932, ch. 209, §203(a), 47 Stat. 169, 224 (1932); Revenue Act of 1934, ch. 277, §203(a), 48 Stat. 680, 732 (1934); Revenue Act of 1936, ch. 690, §203(a), 49 Stat. 1648, 1710 (1936); Revenue Act of 1938, ch. 289, §203(a), 52 Stat. 447, 523 (1938); Internal Revenue Code of 1939, ch. 2, §203(a), 53 Stat. 1, 71 (1939).

[56]*See* Internal Revenue Code of 1939, §§202, 203, as amended by Revenue Act of 1942, ch. 619, §163(a), 56 Stat. 798, 867, (1942).

putation of taxable investment income[57] but continued to be crucial in determining a company's status as a life insurance company.[58] During all these years, reserves computed on the assumption that all premiums had been paid at the policy anniversary date were included without question in life insurance reserves.

The question as to the proper tax treatment of such reserves under prior laws was settled by a 1918 decision of the Federal District Court for the District of New Jersey in the case of *Prudential Ins. Co. of America v. Herold*, 247 Fed. 681 (D.N.J. 1918). This decision was ultimately accepted by the federal tax authorities and hence the question was never again litigated in a reported case. Three years after that decision, in 1921, the Bureau of Internal Revenue announced the position that reserves relating to deferred and uncollected premiums should be included in reserves for purposes of computing a life insurance company's deductions and should also be taken into consideration in determining a life insurance company's invested capital for excess

[57]*See* Internal Revenue Code of 1939, §203A, added by Revenue Act of 1951, ch. 521, §336(b), 65 Stat. 452, 508 (1951), amended by Pub. L. No. 468, §§[1](b), 2, 66 Stat. 444 (1952), amended by Technical Changes Act of 1953, §105, 67 Stat. 315, 616 (1953); Internal Revenue Code of 1954, ch. 736, §§801-807, 68A Stat. 3, 255-59 (1954); Internal Revenue Code of 1954, §§804-805, as amended by Pub. L. No. 429, §2, 70 Stat. 36, 41-44 (1956).

[58]*See* Internal Revenue Code of 1939, §201(b), as amended by Revenue Act of 1942, ch. 619, §163(a), 56 Stat. 798, 867 (1942); Internal Revenue Code of 1954, ch. 736, §801, 68A Stat. 3, 255 (1954); Internal Revenue Code of 1954, §801(a), as amended by Pub. L. No. 429, §2, 70 Stat. 36 (1956).

profits tax purposes.[59] This position remained unchanged when the first statutory definition of life insurance reserves was added by the Revenue Act of 1942. The committee reports on the 1942 statutory definition state that the new definition was "substantially that contained for many years in the regulations" except for the addition of certain particular requirements that are not pertinent here.[60] No significant change was made in the statutory definition added

[59]"8. Reserve funds of life insurance companies. — Generally speaking, Items 7, 8, and 9 of the liability page of the annual statement, convention edition, will be considered reserves as contemplated by the statute. . . . .

* * * *

"14. Uncollected and deferred premiums. — Uncollected and deferred premiums can not reduce reserves. The legal reserves, the net addition to which is deducted from gross income, can not be reduced by the net uncollected and deferred premiums inasmuch as such premiums have not been included as premium income. It also logically follows that the same reserves, upon which the deduction of the net addition is computed for purposes of the income tax, should be taken into consideration in determining invested capital for excess-profits tax purposes. The regulations covering the adjustments by way of additions to, or deductions from, invested capital, applicable to corporations in general, will be observed and followed by insurance companies."

Treasury Department, Bureau of Internal Revenue, *Bulletin "H" — Income Tax Rulings Peculiar to Insurance Companies* 7, 9 (1921).

[60]*See* H.R. Rep. No. 2333, 77th Cong., 2d Sess. 109 (1942); S. Rep. No. 1631, 77th Cong., 2d Sess. 145 (1942). The latter Committee report discusses the new definition and the differences between the House and Senate versions in the following terms:

"Section 201(c)(2) is new and defines the term 'life insurance reserves.' The definition is substantially that contained for many years in the regulations with the addition that the reserves must be based on recognized mortality or morbidity tables, the health and accident reserves must be noncancelable, and unpaid loss reserves on such health and accident contracts are included if computed on a discount basis. The

in 1942 until the present version of Section 801(b) was enacted in 1959. As has been shown above, the limited adjustments made in 1959 in the definition of life insurance reserves were carefully considered and did not purport to change the accepted method of computing life insurance reserves pursuant to state law.

Since it was settled long before 1959 that life insurance reserves for tax purposes as well as for state regulatory purposes include reserves computed on the assumption that all premiums have been paid and since Congress indicated that only carefully specified changes were to be made in the definition of life insurance reserves under the 1959 provisions, any reduction in life insurance reserves should be rejected as contrary to congressional language and intent. One is tempted to recall Mr. Justice Holmes' statement in an early tax case that "[u]pon this point a page of history is worth a volume of logic."[61] But the temptation subsides when

use of mortality or morbidity tables instead of experience tables as in the House bill eliminates any possibility of excluding reserves which are based on sound tables which are not compiled from actual experience. The elimination of contingent claims from the House bill is to permit the liability arising from insurance contracts providing for the payment of the proceeds in installments certain for a specified period and a continuation of their installment payments to a beneficiary so long as he might live, to be classified as a reserve if the contract involved a life contingency even if some part of the liability was held to meet noncontingent claims. It is also made clear that life insurance reserves include reserves for annuity contracts, including life insurance or annuity contracts combined with noncancelable health and accident insurance contracts. The provisions of existing law with respect to reserves of assessment life insurance companies or associations which were omitted in the House bill are inserted." S. Rep. No. 1631, 77th Cong., 2d Sess. 145 (1942).

[61]*New York Trust Co. v. Eisner*, 256 U.S. 345, 349 (1921).

one realizes that, in addition to the page of forty years of history, neither the provisions enacted in 1959 nor logic will support the tampering with life insurance reserves suggested by Petitioner.

3. The regulation purporting to require that life insurance reserves must be reduced if deferred and uncollected premiums are excluded from premium income and assets is either inapplicable or invalid.

Although there is no specific or implicit support in relevant statutory language or legislative history for such position, Petitioner in his regulations threatens the following treatment of life insurance reserves if his position is not accepted on the inclusion of deferred and uncollected premiums in income and assets:

> "In the event it is determined on the basis of the facts of a particular case that premiums deferred and uncollected and premiums due and unpaid are not properly accruable for the taxable year under section 809 and, accordingly, are not properly includible under assets (as defined in section 805(b)(4)) for the taxable year, appropriate reduction shall be made in the life insurance reserves. This reduction shall be made when the insurance company has calculated life insurance reserves on the assumption that the premiums on all policies are paid annually or that all premiums due on or prior to the date of the annual statement have been paid." (Treasury Regulations, Section 1.801-4(f).)

This regulation may not be relevant to the alternative position presented by Petitioner in this case, since the regulation appears to be directed to unusual particular

factual situations where a determination with respect to deferred and uncollected premiums is made "on the basis of the facts of a particular case . . . ." Since Petitioner's alternative position involves, not a particular factual determination that a trial court might make, but rather a proposed rule of general applicability to the life insurance industry as a whole, the regulation could be interpreted to be inapplicable with respect to the questions presented in this case. Moreover, the regulation might be interpreted as lending no support to Petitioner's alternative position because only "appropriate" reductions are called for and the statutory provisions and legislative history indicate that the suggested reduction in reserves would not be "appropriate."

However, if the quoted regulation were interpreted to require a general reduction in life insurance reserves, the regulation would exceed statutory authorization. No statutory authority for such reduction in life insurance reserves is cited by Petitioner. Rather, without the aid of statutory language or legislative history, Petitioner asserts the existence of an alleged proportional relationship between a life insurance company's reserves and assets for a particular year. As has been shown above (see pages 30-35) no requirement of simple proportionality of reserves to assets is inherent in the applicable tax provisions and several statutory provisions evidence Congressional intent that assumptions or methods used in computing reserves need not be cor-

respondingly or proportionally applied in the computation of income and assets. Moreover, Congress clearly intended no such reduction in life insurance reserves when the 1959 provisions were enacted. Thus, if the quoted regulation would require a general reduction in the life insurance reserves of Respondent and other life insurance companies, the regulation would be invalid because unauthorized. *See United States v. Cartwright*, 411 U.S. 546 (1973).

CONCLUSION

Deferred and uncollected premiums may not properly be included in premium income or in assets of a life insurance company since a life insurance company has not received such premiums by the end of a particular tax year and has no right to receive such premiums. However, if some portion of deferred and uncollected premiums were included in premium income and assets, loading on such premiums or at least the expenses of collecting such premiums should in any event be excluded. Finally, the Petitioner's alternative position that life insurance reserves should be reduced if deferred and uncollected premiums are not included in premium income and assets should be rejected because such proposed treatment is not authorized by the applicable statutory provisions and is inconsistent with the indicated intent of Congress.

Respondent therefore asks that this Court affirm the decision of the Court of Appeals for the Tenth Circuit in this case.

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OCTOBER TERM, 1976

COMMISSIONER OF INTERNAL REVENUE, PETITIONER

v.

STANDARD LIFE & ACCIDENT INSURANCE COMPANY

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

REPLY BRIEF FOR THE PETITIONER

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STANDARD LIFE & ACCIDENT INSURANCE COMPANY

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

REPLY BRIEF FOR THE PETITIONER

I

THE TREASURY REGULATIONS PRESCRIBING THE TREATMENT OF DEFERRED AND UNCOLLECTED LIFE INSURANCE PREMIUMS PROPERLY REFLECT THE FUNDAMENTAL RELATIONSHIP BETWEEN PREMIUMS AND RESERVES

1. In attempting to support the result reached by the court of appeals that a life insurance company may assume receipt of its deferred and uncollected premiums for purposes of computing its "reserves" but thereafter abandon that assumption when com-

puting its "assets" and "gross amount of premiums," respondent necessarily adopts the position that a company's life insurance reserves are conceptually unrelated to the premiums paid by its policyholders. Thus, respondent contends (Br. 39–50) that it was required by state law to include the net valuation portion of the deferred and uncollected premiums in its reserves and that this state law requirement was a sufficient and independent basis for recognition of such a reserve for federal tax purposes under Section 801(b) of the Code. However, when it comes to taking the deferred and uncollected premiums into account in "assets" and "gross amount of premiums," respondent asserts that it did not receive the premiums and had no legal right to compel their payment.

But as we have pointed out in our opening brief (pp. 29–33), the fundamental relationship between reserves and premiums refutes respondent's bifurcated analysis. Every life insurance text defines a life insurance reserve as made up of the sum of *net valuation premiums paid to date,* plus interest at the assumed rate, minus assumed death claims. See, *e.g.,* MacLean, *Life Insurance* 90–116 (9th ed. 1962).

In view of the fundamental relationship between premiums and reserves, a life insurance company's reserves are not bookkeeping entries created in a vacuum without regard to premiums, as respondent and the court of appeals would have it, but represent liabilities to the policyholders only to the extent that the policyholders pay premiums out of which amounts can be "set aside" to meet future claims. See Section

801(b)(1)(B). Since the deferred and uncollected premiums have not been paid and the company bears no insurance risk with respect to those premiums, the simpler and more logical approach would be to exclude deferred and uncollected premiums altogether from the federal tax computations of the company's "reserves," in accordance with Treasury Regulations, Section 1.801–4(f) (see our opening brief, pp. 54–58).

2. Contrary to respondent's (Br. 39–50) and the *amicus* American Council of Life Insurance's (ACLI) (Br. 10–11) argument, the fact that state law required respondent to compute its reserves on the assumption that it received its deferred and uncollected premiums does not of itself justify recognition of such reserves for federal tax purposes under Section 801(b) without regard to premiums. To be sure, Section 801(b)(2) provides that "life insurance reserves must be required by law" and Section 1.801–5(b) of the Treasury Regulations defines that statutory phrase to mean reserves that are required by state statutes or administrative rules. But there are other elements of the statutory definition of a reserve that demonstrate that a life insurance reserve for federal tax purposes is one that is derived from the premiums paid by the policyholders. Thus, Section 801(b)(1)(A) and (B) provide that a life insurance reserve must also be an "amount" "computed or estimated on the basis of recognized mortality or morbidity tables and assumed rates of interest" that is "set aside to mature or liquidate * * * future unaccrued claims arising from life insurance * * *." If,

as here, the policyholder does not pay the premiums, the company has nothing to "set aside" for the corresponding reserve.

The decisions of this Court uniformly support our submission that a life insurance reserve is tied to the payment of premiums, and that state law characterizations cannot alter this fundamental relationship. In construing predecessor definitional provisions that were essentially equivalent to Section 801(b)(1), the Court has stated that the term "reserve" "does not necessarily include whatever a state official may so designate * * * [but that it] has a technical meaning * * * [as] something *reserved from premiums* to meet policy obligations at maturity." *New York Life Ins. Co.* v. *Edwards,* 271 U.S. 109, 119 (emphasis supplied). Accord: *McCoach* v. *Insurance Company of North Carolina,* 244 U.S. 585, 589; *United States* v. *Boston Insurance Co.,* 269 U.S. 197, 202; *Helvering* v. *Inter-Mountain Life Ins. Co.,* 294 U.S. 686, 689–690. There is accordingly no basis to respondent's and ACLI's contention that state law nomenclature accords independent federal tax recognition to a life insurance reserve without regard to premiums.

Finally, as we have shown in our opening brief (pp. 34–37 and n. 25), the inclusion of the net valuation portion of the deferred and uncollected premiums in reserves derives from the financial reporting assumption of full premium receipt that is used by the life insurance industry in order to avoid the actuarial work involved in computing reserves on a policy-by-policy basis. Thus, the state law which respondent invokes as an independent basis for federal tax recognition of its reserves does not impose an insurance liability upon a company for periods with respect to which premiums have not been paid. To the contrary, the state law simply permits the use of life insurance industry's convention of including the net valuation portion of deferred and uncollected premiums when computing reserves. However, the insurance texts all recognize that the inclusion of such premiums in reserves results in "reserve liabilities * * * [that] are greatly overstated." Wightman, *Life Insurance Statements and Accounts* 545 (1952 ed.); *id.* at 43–44, 155. Accord: MacLean, *Life Insurance* 318–319 (9th ed. 1962); Beardsley, *Life Company Annual Statement Handbook* III–15 (1962); Ernst & Ernst, *GAAP* [Generally Accepted Accounting Principles]—*Stock Life Companies* 449–450 (1974); McGill, *Life Insurance* 867–868 (Rev. ed. 1967). This overstatement of reserves has no actual impact on the company's surplus or solvency because an equal amount is set up as an offsetting asset. MacLean, *supra,* at 318–319.

Both the Commissioner's primary and alternative positions represent different but equally valid methods of dealing with the overstatement of reserves caused by the inclusion of the net valuation portion of deferred and uncollected premiums in reserves. In providing for the inclusion of the gross amount of deferred and uncollected premiums in "assets" and "gross amount of premiums," the primary position set forth in Section 1.805–5(a)(4) and 1.809–4(a)

(1) of the Regulations accepts the industry's convention of overstating the reserves. But since that overstatement rests upon the assumption that all premiums are paid in full, that assumption must be consistently applied so as to include the full amount of deferred and uncollected premiums in "assets" and "gross amount of premiums." By requiring consistent application of the premium receipt assumption, the Commissioner's primary position properly recognizes that life insurance reserves are established only from the payment of premiums.

The Commissioner's alternative position likewise rests upon the fundamental relationship between premiums and reserves. In requiring the exclusion of deferred and uncollected premiums from reserves if they are excluded from "assets" and "gross amount of premiums," Section 1.801–4(f) also avoids the computational imbalance produced by the decision of the court of appeals in this case. It accomplishes this result by recognizing that the financial reporting device of overstating reserves by the net valuation portion of deferred and uncollected premiums is a fiction.[1] It therefore eliminates such premiums altogether from "reserves" as well as "assets" and "gross amount of premiums."

Since the overstated reserves do not represent actual liabilities to policyholders and are not derived from premiums, they do not represent amounts that

[1] This is explained in the trial judge's opinion in *Monumental Life Insurance Co.* v. *United States*, 76–2 U.S.T.C. ¶ 9787 decided November 19, 1976 (Ct. Cl.).

have been "set aside" for the payment of future claims within the meaning of Section 801(b)(1)(B) or the decisions of this Court. Indeed, the exclusion of the net valuation portion of deferred and uncollected premiums from reserves, in accordance with Treasury Regulations, Section 1.801–4(f), finds support in the statement of a leading commentator that these amounts "are not reserves required by law * * * and do not meet the test of funds set aside out of premiums for the benefit of policyholders." Nash, *Federal Taxation of Life Insurance Companies*, § 13.09 (Harman rev. 1976). Thus, the exclusion of deferred and uncollected premiums from reserves, under the Commissioner's alternative position, is neither "strongarm" nor "pernicious," as the *amicus* ACLI argues (Br. 19, 20), but finds solid support in both the insurance texts and the decisions of this Court.[2]

3. Contrary to respondent's (Br. 45–46) and *amicus* ACLI's (Br. 12–13) further argument, neither *Pru-*

[2] While respondent (Br. 48–49) and ACLI (Br. 8, 20–21) argue that Section 1.801–4(f) of the Regulations is invalid, the life insurance industry itself recognized both the underlying concept of the Regulation and the necessary relationship between a company's "reserves" and "assets" almost immediately after the passage of the 1959 Act. More than a year before the Regulations in issue were promulgated, the Conference of Actuaries in Public Practice discussed the possible tax effect of eliminating deferred and uncollected premiums in computing reserves. See Conference of Actuaries in Public Practice, *The Proceedings, 1959–1960*, 36–62. As the following discussion demonstrates, the industry actuaries recognized that a company was required either to include the deferred and uncollected premiums in both its "reserves" and "assets" under the 1959 Act or to eliminate these premiums

dential Inc. Co. v. *Herold,* 247 Fed. 681 (D. N.J.), nor Bulletin H which purports to follow it, are valid precedents with respect to the question in this case. In *Prudential Ins. Co.*, the court concluded that a life insurance company could increase its reserves by the net valuation portion of its deferred and uncollected premiums even though it otherwise excluded such premiums from income under the cash method of accounting then required by the statute.[3]

The *Prudential* decision that a company could include the net valuation portion of such premiums in

from both sets of computations ("Panel Discussion: How to Live With the New Federal Income Tax," *id* at 50);

"Moderator LESLIE. I have another question for you, Ralph: 'What thought has been given to computing reserves on a continuous premium method so that no deferred premium would be required?'

"Mr. NILES. The question here is merely a variation of the overall question as to whether reserves should be maintained as low as possible or as high as possible.

"If a company changes to a continuous premium method so that no deferred premiums are required, there will result a reduction in reserves. And, to determine whether this is good or bad, we must look at the entire picture.

"However, there is an additional complication here. The elimination of deferred premiums will reduce the assets, which, in turn, would increase the current and average earnings rate. So, again, it can only be emphasized that the answer will depend upon the particular situation."

[3] See, *e.g.*, *Mutual Benefit Life Ins. Co.* v. *Herold*, 198 Fed. 199, 214–215 (D. N.J.), affirmed *per curium*, 201 Fed. 918 (C.A. 3), certiorari denied, 231 U.S. 755; *Connecticut General Life Ins. Co.* v. *Eaton*, 218 Fed. 188, 205–206 (D. Conn.), affirmed *per curiam*, 223 Fed. 1022 (C.A. 2).

its reserves turns upon the court's mistaken understanding that the company had an actual reserve liability with respect to these premiums and that it had "effectively withdrawn [assets] from * * * [its] use" to cover this reserve (247 Fed. at 686). But as we have shown, the inclusion of the net valuation portion of deferred and uncollected premiums in reserves results in an overstatement of reserves which is not covered by actual assets (see our opening brief, pp. 35–36). Thus, the one commentator who discusses the *Prudential* decision at length has stated that he does not believe "that the court's conclusion that deferred premiums were properly reserves required by law can be afforded much validity [because] * * * the [case] arose before the development of the definition of reserves required by law reached its full growth." Nash, *supra,* at § 13.06. Since the present statute now requires life insurance companies to use an accrual method of accounting for "all computations" (Section 818(a)) and since it is now well understood that the inclusion of deferred and uncollected premiums in reserves overstates the reserves, the *Prudential* rationale has been discredited.[4]

[4] Between 1921 and 1959, the question whether reserves and premiums could be computed on the basis of inconsistent assumptions became relatively insignificant, because life insurance companies were then taxed solely on "free investment" income, computed under a series of artificial tax formulas (see our opening brief, pp. 22–23).

II

THE STATUTORY PHASE I AND II FORMULAS WILL ACCURATELY MEASURE A LIFE INSURANCE COMPANY'S TAXABLE INCOME ONLY IF PREMIUMS, ASSETS AND RESERVES ARE COMPUTED IN ACCORDANCE WITH A CONSISTENT SET OF ASSUMPTIONS

1. As we have pointed out in greater detail in our opening brief (pp. 39–45, 51–53), the integrity of the federal tax formulas, which rest upon the proportionate relationship between "reserves" and "assets" (Phase I) and upon a net income computation of gross premiums less reserves (Phase II), requires that all of the statutory elements be computed in accordance with a consistent set of assumptions. Respondent disputes the need for consistency and argues (Br. 10, 15–17, 29, 33, 35–36) that there is no statutory requirement that the tax computations be made on the basis of the same assumptions. In support of its contention, it cites (Br. 14–17, 34–35) Sections 806(b), 810(d), and 818(c) as indicating that the premium receipt assumption does not have to be consistently applied across the board.

These provisions have no bearing on the question in this case. They are applicable only to situations in which a life insurance company "strengthens" its reserves by changing the mortality or interest rate assumptions (Sections 806(b), 810(d)) or when it changes its reserve computations from a "preliminary term" to a "net level premium" basis (Section 818

(c)).[5] In each of those special cases, the company simply adjusts the amount of its total assets previously received and then on hand that will be treated as "set aside" (Section 801(b)(1)(B)) for the payment of future death claims.

Here, however, the inclusion of the net valuation portion of deferred and uncollected premiums in reserves overstates the reserves because the premiums on which the addition is based have not been received and could not be "set aside." Thus, nothing in Sections 806(b), 810(d) or 818(c) casts doubt upon our submission that the elements of the tax computation must be computed in accordance with a consistent set of assumptions.[6]

2. Respondent also argues (Br. 6, 10, 11, 15, 31, 33–34) that the 1959 Act does not establish any pro-

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[5] Under a preliminary term system, an insurance company treats the first year of an ordinary life policy as a term insurance policy for one year (hence the expression "preliminary term"). Because the hypothetical one-year preliminary term policy has only a small reserve requirement, this system allows the company to apply almost all of the annual premium for the first year against the company's customarily high first-year expenses. In later years, the company will add larger amounts to its reserves to make up the difference. See, generally, MacLean, *supra*, at 131–140. Section 818(c) allows life insurance companies using a preliminary term system to revalue their reserves for tax purposes on a net level basis. Thus, a company will still be able to claim the same deductions and exclusions with respect to its reserves in the first policy year as if it had not used the preliminary term method.

[6] Respondent further argues (Br. 17–18) that the contradictory assumptions of the court of appeals with respect to assets, gross amount of premiums, and reserves, is consistent with the annual accounting principle "that a deduction is to be allowed for the

(Continued)

231-512—77——3

portional relationship and consistency of treatment among reserves, assets, or premium income. There is, however, nothing in the statute that exempts life insurance companies from the general rule applicable to all other taxpayers that all items must be reported in accordance with the same method of accounting. See, *e.g., Helvering* v. *Wilshire Oil Co.,* 308 U.S. 90, 96–99.

The need for consistency is most graphically shown by the net income computation under the Phase II formula. The primary difference between the Phase II formula and the way other taxpayers are taxed is that life insurance companies are allowed deductions for the part of their current income that must be set aside for the payment of future, unaccrued claims. But the only justification for the special deduction allowed by Section 809(d)(2) for increases in reserves is that the company would otherwise be subject to tax on premium income which it must hold for the benefit of its policyholders. Thus, there is no basis upon which respondent could claim a current deduction under Section 809(d)(2) on the ground that it is required to set aside a part of its deferred and uncollected premiums unless those premiums are themselves included in the current year's income. Treasury Regulations, Section 1.809–4(a)(1). By the same token, if respondent wants to defer reporting those premiums as income until the following year, it must also defer its deduction for the part of those premiums set aside for future policy claims. Treasury Regulations, Section 1.801–4(f).

Respondent's contention (Br. 30–33) that reserves and assets are independent variables under the Phase I computation is likewise erroneous. Respondent argues that the Phase I formula does not prescribe a "simple proportional relationship between life insurance reserves and assets" (Br. 31) because the exclusion for the policyholders' share of investment yield is determined in terms of a company's "adjusted reserves [earnings] rate" (Section 805(b)) and "adjusted life insurance reserves" (Section 805(c)).[7] As

year in which it arises and related income is to be taxed in the year when it is received or accrued even if the deduction and the income do not fall in the same tax year." But unlike the case of an ordinary taxpayer, who accrues or pays out otherwise deductible expenses with respect to income received in a subsequent year, a life insurance company's inclusion in reserves of the deferred and uncollected premiums results in an overstatement of reserves that would not normally justify a deduction because it does not represent an actual liability of the company. However, the Commissioner is willing to recognize this overstatement for tax purposes only if the full premium receipt assumption is employed also with respect to "assets" and "gross amount of premiums."

[7] Indeed, respondent even suggests (Br. 30) that our description of the Phase I formula (see our opening brief, pp. 5–6, 39–40) "cannot be derived from the statutory provisions." But as we explained in our opening brief (pp. 5–6, 39–40), Section 805(b) defines a company's earnings rate as the company's investment yield divided by its assets. Apart from the adjustments referred to above in the text, the Phase I formula can therefore be expressed mathematically in terms of the following equations:

$$\text{Earnings Rate} \times \text{Reserves} = \text{Exclusion (Section 805(a))}$$

$$\frac{\text{Investment Yield}}{\text{Assets}} \times \text{Reserves} = \text{Exclusion (Section 805(b))}$$

This equation can be restated mathematically in the following terms:

$$\frac{\text{Reserves}}{\text{Assets}} \times \text{Investment Yield} = \text{Exclusion}$$

Thus, contrary to respondent's argument (Br. 30–33), the statute itself prescribes the proportionate relationship between "reserves" and "assets."

we pointed out in our opening brief (pp. 5–6, nn. 5, 6), both the earnings rate and the amount of reserves used in the Phase I formula are subject to adjustment in the final determination of the amount of the annual exclusion. But while these adjustments make the computation more detailed, they do not alter the essential proportional relationship between assets and reserves that is at the heart of the Phase I formula.

The purpose of these adjustments supports rather than detracts from, our position that reserves and assets should be computed on a consistent basis. As we have noted in our opening brief (pp. 23–24, 39–40), the Phase I formula was established by Congress in order to divide a company's investment income between the company and its policyholders in accordance with the company's actual earnings experience, instead of on the basis of assumed rates of interest used by individual companies or an industry-wide ratio as was the case under prior law. See S. Rep. No. 291, 86th Cong., 1st Sess. 5, 15–16 (1959). Thus, the life insurance industry itself recommended the adjustment pursuant to which an average earnings rate over a period of years (Section 805(b)) would be used in the Phase I formula.[8] As a result, the impact

[8] See, *e.g.*, Hearings on H.R. 4245 (Tax Formula for Life Insurance Companies) before the Senate Committee on Finance, 86th Cong., 1st Sess., pp. 67–68 (statement of Deane C. Davis), 149–150, 165, 175–178 (statement of Richard C. Guest), 252, 259–260 (statement of Henry S. Beers) (1959). A list of the various industry proponents of the Phase I formula was included in a pamphlet prepared by the Staff of the Joint Committee on Internal Revenue Taxation at the time the 1959 Act was considered. See Summary of Recommendations Made in The Hearings on the Taxation of Life Insurance Companies before the Senate Committee on Finance, 86th Cong., 1st Sess. (April 8, 1959).

of disproportionately high or low earnings in any one year is minimized and the formula provides a more realistic method for determining what proportion of a company's total investment income is actually attributable to the company's policyholder reserves and what part represents earnings on the company's own surplus. See S. Rep. No. 291, *supra,* at 5, 15–16; 105 Cong. Rec. 8428–8429 (1959) (remarks of Senator Curtis). See also H.R. Rep. No. 34, 86th Cong., 1st Sess. 10 (1959).

Under the Menge Formula of Section 805(c)(1), a company's life insurance reserves are adjusted to take into account any difference between the company's actual earnings experience and the assumed rate of interest that was used by the company in originally establishing its reserves (see our opening brief, p. 39, n. 29). The formula, which was based on "industry experience," is designed to "restate" the company's reserves as if the company's actual earnings rate had been applied as the assumed rate from the outset. S. Rep. No. 291, *supra,* at 15–16. Thus, the formula provides that a company's reserves are to be reduced 10 percent for each percentage point by which the company's average earnings rate ("adjusted reserves rate") exceeds the assumed rate of interest used by the company in initially setting up its reserves. Conversely, if a company's assumed rate of interest exceeds its adjusted earnings rate, the

company's reserves will be increased by 10 percent for each percentage point by which the company's assumed earnings rate exceeds its actual earnings rate. H.R. Rep. No. 34, *supra,* at 11; S. Rep. No. 291, *supra,* at 15–16. See McGill, *supra,* at 915–916, n. 6. See also Hearings on H.R. 4245 (Tax Formula for Life Insurance Companies) before the Senate Committee on Finance, 86th Cong., 1st Sess., pp. 175–176 (statement of Richard C. Guest) (1959).

Thus, contrary to respondent's argument (Br. 31–32), the Menge Formula does not refute the existence of a proportional relationship between reserves and assets. Instead, it is intended to eliminate any "discretionary actuarial assumptions" in computing reserves and thereby yield a more realistic allocation of earnings between the company and its policyholders. See Hearings on H.R. 4245 (Tax Formula for Life Insurance Companies), *supra,* at 149, 169, 175–178 (statement of Richard C. Guest); S. Rep. No. 291, *supra,* at 5, 15–16. As one industry spokesman who testified in favor of the Menge Formula explained, it was designed to establish a "standardized reserve" that would serve as a more realistic basis for determining the exact "proportion" of a company's total investment income that is attributable to its reserve requirements. Hearings on H.R. 4245 (Tax Formula for Life Insurance Companies, *supra,* at 165, 175–178.[9]

[9] Respondent also suggests (Br. 32, n. 40) that if the company's actual earnings rate exceeds its assumed rate by substantially more than five percentage points, the Menge Formula may begin to overcompensate for the disparity. Indeed, if the actual earnings rate is more than 10 percentage points greater than the assumed rate, the adjustment required by Section 805(c)(1) would eliminate the tax exclusion altogether. Congress, of course, did not contemplate such a disparity between a company's actual earnings rate and the assumed rate at which it credits investment income to its policyholders, and respondent has suggested no reason to doubt the effectiveness of the Menge formula in determining realistic reserve requirements in more normal ranges of experience. In fact, Congress anticipated that competitive pressures in the life insurance industry would prevent any unrealistic disparity between a company's actual and assumed earnings rates, and that the Menge Formula would properly operate within a normal range. See S. Rep. No. 291, *supra,* at 5.

3. Finally, respondent (Br. 26–28) and the *amicus* ACLI (Br. 22–23, n. 30) argue that deferred and uncollected premiums are not includable in a company's "assets" under Section 805(b)(4) because they are not investment-type assets. They urge that the term "assets" in Section 805(b)(4) should be limited to invested assets because the Phase I computation is geared to determining a company's actual earnings rate.

But Section 805(b)(4) makes no distinction between investment and noninvestment assets. It refers to "all assets of the company" with the exception of certain assets (excluding money) used in carrying on the company's insurance business. Indeed, the fact that the statute includes "nonadmitted assets," a term the life insurance industry uses to refer to various assets that cannot be considered in determining a company's solvency, such as debit balances due

from agents,[10] demonstrates that noninvestment assets are within the statutory definition of "asset."[11] As the Fourth Circuit stated in *Jefferson Standard Life Insurance Co.* v. *United States,* 408 F. 2d 842, 858, certiorari denied, 396 U.S. 828, "the Phase I computation is not restricted to invested assets, but encompasses the *total assets* of a life insurance company and the portion thereof devoted to policy reerves" (footnote

[10] See American Institute of Certified Public Accountants, *Audits of Stock Life Insurance Companies* 41–42 (1972); Noback, *Life Insurance Accounting* 94 (1969).

[11] Section 805(b)(4) provides that the only exclusion from its definition of "asset" is "real and personal property (excluding money) used by * * * [a company] in carrying on an insurance trade or business." The exclusion covers office buildings, furniture and fixtures. See Treasury Regulations, Section 1.805–4(a).

Respondent also suggests (Br. 27, 37, n. 46) that deferred and uncollected premiums might be excluded from a company's "assets" on the grounds that these premiums are a "notional asset * * * used in the conduct of the insurance business" (Br. 27). But the argument proves too much. As the court observed in *Jefferson Standard Life Insurance Co.* v. *United States*, *supra*, 408 F. 2d at 858–859, the exclusion in Section 805(b)(4) for "real and personal property (excluding money) used * * * in carrying on an insurance trade or business" must be limited to a company's home office and branch office building, furniture and equipment. All of the assets of a company engaged in the life insurance business are presumably related to the conduct of that business. Thus, if assets such as deferred and uncollected premiums are treated as property used in the trade or business of carrying on an insurance underwriting operation, Section 805(b)(4) would be "rendered meaningless because the exceptions would be construed so broadly as to include literally all assets, so that nothing would be left." 408 F. 2d at 858. See also, *Bankers Union Life Insurance Co.* v. *Commissioner*, 62 T.C. 661, 676.

omitted; emphasis supplied). See also H.R. Rep. No. 34, *supra,* at 10, 12 n. 1.[12]

III

A LIFE INSURANCE COMPANY IS NOT ENTITLED TO A DEDUCTION OR OFFSET FOR THE "LOADING" PORTION OF ITS DEFERRED AND UNCOLLECTED PREMIUMS IN COMPUTING ITS "ASSETS" AND "GROSS AMOUNT OF PREMIUMS"

1. We come now to the position of the *amicus* American Council of Life Insurance. Contrary to the result the court of appeals reached, the *amicus* acknowledges that some part of a life insurance company's deferred and uncollected premiums is includable in "assets" and "gross amount of premiums." However, ACLI contends (Br. 21–32) that a life insurance company is required to include only the net valuation portion of deferred and uncollected premiums in "assets" and "gross amount of premiums." Thus, under the ACLI

[12] Respondent further contends (Br. 28–29, n. 38) that even if the deferred and uncollected premiums are includable in a company's assets under Section 805(b)(4), these premiums should be taken into account at an adjusted basis of zero. But the adjusted basis of an item that is received by a taxpayer as part of its taxable income is determined by the amount that the taxpayer is required to use in reporting the item of income in question. Thus, if a life insurance company is required to include its deferred and uncollected premiums as part of its "gross amount of premiums" under Section 809(c)(1), as we submit, the adjusted basis of these premiums for purposes of Section 805(b)(4) would be equal to the amount taken into income under Phase II.

approach, a company could claim a deduction or offset for the "loading" portion of the deferred and uncollected premiums, *i.e.*, the difference between the gross premium paid by the policyholder and the net valuation premium.[13]

There is, however, no statutory or rational basis for a deduction or offset for loading from either "assets" or "gross amount of premiums" (see our opening brief, pp. 47–48, 54). In support of such a deduction, the *amicus* relies (Br. 23–25) upon the annual statement form approved by the National Association of Insurance Commissioners and used by the insurance departments of most states. Pursuant to the NAIC form, an insurance company offsets the overstatement of its reserves in the amount of the net valuation portion of the deferred and uncollected premiums by creating an asset equal in amount called "Life insurance premiums and annuity considerations deferred and uncollected" (see, *e.g.*, Ex. E, A. 60–61).

But as we have pointed out in greater detail in our opening brief (pp. 34–37, 46–48), the inclusion of the net valuation premium on the assets side of the NAIC form arises from the need to establish a "quasi-asset" to offset the overstatement of the reserves and balance the accounts. Thus, the NAIC method does not clearly reflect income of a life insurance company; it simply provides for corrective adjustments to compensate for the historical practice

[13] Detailed definitions of the terms "loading" and "net valuation premium" are set forth at pp. 8–9 of our opening brief.

of computing reserves on the assumption of full premium receipt. Wightman, *supra,* at 43–44. See also *id.* at 155, 545; MacLean, *supra,* at 318–319. Ernst & Ernst, *supra,* at 449–450; Beardsley, *supra,* at III–15.

What then is the proper impact of the premium receipt assumption upon the "assets" and "gross amount of premiums" computations? For purposes of computing its reserves, respondent used the financial reporting assumption that the annual premiums had been paid in full as of the anniversary dates of each of its policies. It thereupon increased its reserves by the net valuation portion of those premiums—the actuarial amount to be set aside to meet future death claims.

But the assumption underlying the reserve computation was that the policyholders paid their premiums in full and not some lesser amount. Respondent (Br. 3, 24 n. 30, 37 n. 45) and the *amicus* ACLI (Br. 5–6, 11, 30) err in suggesting that the "only assumption * * * is that the net valuation portion of [the] deferred and uncollected premiums has been received by year-end" (Resp. Br. 24, n. 30). The parties stipulated (A. 17) and the Tax Court found (Pet. App. A 3a) that the assumption is that the *gross* annual premium, including the gross amount of all deferred and uncollected installments, is paid in advance on the anniversary date of each policy.[14] Thus, a consistent applica-

[14] Indeed, respondent and ACLI acknowledge elsewhere (Resp. Br. 15, 40; ACLI Br. 6) that the assumption used in computing the reserve is that the policyholder paid the gross annual premium.

tion of the premium receipt assumption requires that the gross amount of the premium be taken into account in "assets" and "gross amount of premiums." Treasury Regulations, Sections 1.805–5(a) and 1.809–4(a). Simply put, policyholders pay gross premiums and not the net valuation portion of their premiums. As the Fifth Circuit stated in *Western National Life Insurance Co. of Texas* v. *Commissioner,* 432 F. 2d 298, 301, "[t]here would be no percentage to be transferred to reserves if the entire deferred and uncollected premiums were not accrued."

2. There is no support for the *amicus* ACLI's contention (Br. 26–29) that Congress intended the NAIC annual statement form to govern the tax computations under the 1959 Act. As we have pointed out in our opening brief (pp. 48–50), Section 818(a) provides that life insurance companies must make all tax computations under an accrual method of accounting. Although the statute also refers to the NAIC annual statement, the pertinent committee reports show that Congress intended that the NAIC method would come into play only when "not inconsistent with the provision of the 1954 Code and an accrual method of accounting." H.R. Rep. No. 34, *supra,* at 42; S. Rep. No. 291, *supra,* at 72–73.

The insurance texts uniformly recognize that the corrective adjustments made on the NAIC annual statements are not consistent either with accrual accounting or with the premium receipt assumption used in the computation of reserves. See Wightman, *supra,* at 43–46; Ernst & Ernst, *supra,* at 449–450.

See also Beardsley, *supra,* at III–15, MacLean, *supra,* at 318–319. Indeed, the life insurance industry's own Joint Committee on Blanks of the American Life Convention and Life Insurance Association of America concluded that "the basic objectives of the annual statement and of the tax return are so different in concept as to preclude revision of the annual statement blank solely to conform to tax accounting concepts." II *Proceedings of the National Association of Insurance Commissioners* 445–446 (1963).[15] Thus, the four courts of appeals that have considered the industry's claim have all properly rejected the argument that the NAIC annual statement employs an accrual method of accounting with respect to de-

[15] Contrary to the *amicus* ACLI's further argument (Br. 27), the fact that state insurance regulation employs the NAIC financial reporting method does not require that it be used for federal tax purposes. As we have pointed out in our opening brief (pp. 36–37), the goal of the various adjustments on the NAIC form is to permit the assumption of full premium payment without distorting the report of the company's solvency on its annual report. However, the federal tax statute requires an accrual method of accounting. To the extent that there are differences, the NAIC form must yield to the tax accrual rules prescribed by Congress. As one text has stated (Denney, Rua & Schoen, *Federal Income Taxation of Insurance Companies* 9.3 (2d ed. 1966)):

"There are several areas where differences exist between the accrual basis used for the annual statement and the general rules of accrual for tax purposes. The insurance business has long been held to be one in which the public interest is of great importance and regulatory laws have been established primarily for the purpose of protecting the policyholder. Consequently, the emphasis of the annual statement has been on the solvency of the company. Such emphasis leads to provisions for contingencies for the purposes of the annual statement which are at variance with tax accrual rules which have been developed throughout the years."

ferred and uncollected premiums. See *Franklin Life Insurance Co.* v. *United States,* 399 F. 2d 757, 760 (C.A. 7), certiorari denied, 393 U.S. 1118; *Jefferson Standard Life Insurance Co.* v. *United States, supra,* 408 F. 2d at 849–850, 855–856; *Western National Life Insurance Co. of Texas* v. *Commissioner, supra,* 432 F. 2d at 301; *Western and Southern Life Insurance Co.* v. *Commissioner,* 460 F. 2d 8, 12–13 (C.A. 6), certiorari denied, 409 U.S. 1063.

3. Moreover, both respondent (Br. 21) and the *amicus* ACLI (Br. 29) argue that the failure to permit a deduction or offset for loading will produce the "anomalous" result that a company will have a larger amount of income in a year if premiums are deferred than it would if they were in fact received. In so arguing, respondent and the *amicus* assume that the loading element is comprised entirely of deductible expenses. Thus, in support of a deduction for loading, respondent and the *amicus* rely upon a line of decisions permitting a deduction only for Phase II purposes for unpaid and unaccrued agents' commissions and state premium taxes that would become payable upon the receipt of the deferred and uncollected premiums. See *Great Commonwealth Life Insurance Co.* v. *United States,* 491 F. 2d 109, 113–116 (C.A. 5); *Federal Life Insurance Co.* v. *United States,* 527 F. 2d 1096 (C.A. 7); *North American Life & Cas. Co.* v. *Commissioner,* 533 F. 2d 1946 (C.A. 8); *United Life & Accident Insurance Co.* v. *United States,* 329 F. Supp. 765 (D. N.H.); *Midland National Life Ins. Co.* v. *Commissioner,* 66 T.C. 550, 563–566,[16] on appeal (C.A. 8).

But these decisions are not authority for the deduction of the undifferentiated loading element of the deferred and uncollected premiums sought by the life insurance industry. They rest upon the narrow rationale that state premium taxes and agents' commissions that are readily attributable to deferred and uncollected premiums are deductible only for purposes of the Phase II income computation under Section 809(d)(12) (now Section 809(d)(11)), which permits a deduction for "all other deductions allowed under this subtitle for purposes of computing taxable income to the extent not allowed as deductions in computing investment yield."

However, contrary to respondent's and the *amicus'* assumption, loading is not a deductible expense but is simply the difference between the gross premium and the net valuation portion designated as actuarially required to be set aside to meet future claims. Thus, loading is not an expense item but an income item analogous to the margin of gross profit built into the selling price for goods and services. As the Seventh Circuit observed in *Federal Life Insurance Co.* v. *United States, supra,* 527 F. 2d at 1098, " 'loading' as a unit * * * [is] a concept not mentioned in the

[16] There is no provision under Phase I for reducing a company's total assets by the amount of any liabilities, whether accrued or unaccrued. See *Republic National Life Insurance Co.* v. *United States,* 77-1 U.S.T.C. ¶ 9133, decided December 9, 1976 (N.D. Tex.).

statute * * * [and] [i]t seems quite proper that not all portions of loading should be allowed as a deduction; loading includes elements of profit which will never be deductible and elements of anticipated expense subject to various contingencies which may or may not ever occur * * *."

Accordingly, there is no statutory or judicial authority in support of the industry's and respondent's alternative claimed deduction (see A. 5) of the loading element from "assets" and "gross amount of premiums." [17]

4. Finally, the anomalous results the ACLI (Br. 29) and the respondent (Br. 38) suggest would occur unless the loading portion of deferred and uncollected premiums is excluded from both the "gross amount of premiums" under Section 809(c)(1) and "assets" under Section 805(b)(4) are, in large part, attributable to the fact that respondent and other life insurance companies compute their reserves on the assumption that deferred and uncollected premiums have been paid, and not to the Commissioner's requirement that deferred and uncollected premiums, if taken into account for the purpose of computing reserves, must be consistently accrued for all purposes under the 1959 Act.

Once the premium receipt assumption and the resulting overstatement of reserves are accepted for tax

[17] Since respondent did not raise the issue of the deductibility of state premium taxes and agents' commissions in the courts below, there is no occasion for this Court to address the additional question presented by the *amicus* Lincoln National Life Insurance Company as to the correctness of the decisions that have thus far uniformly permitted a deduction for those items.

purposes, there will always be differences in tax treatment arising from variations in the amount of annual premiums which a company actually has received and the amount of premiums which it assumes that it has received. The only way to eliminate all such disparities and achieve true tax neutrality between companies that collect all of the premiums taken into account in computing reserves, and those companies that take substantial amounts of deferred and uncollected premiums into account and thereby overstate their reserves, would be to exclude the net valuation portion of deferred and uncollected premiums from the reserves in accordance with Section 1.801–4(f) of the Regulations. Indeed, the courts have properly characterized this approach as both "simpler" and "far more accurate" (*Franklin Life Insurance Co.* v. *United States, supra,* 399 F. 2d at 761; *Great Commonwealth Life Insurance Co.* v. *United States, supra,* 491 F. 2d at 116). Respondent and the life insurance industry can therefore hardly complain of the Treasury's willingness to accept the distortions inherent in the industry's overstatement of reserves on the condition that the gross premium receipt assumption be likewise applied with respect to "assets" and "gross amount of premiums."

"Alternatives," of course, will always be available, here, as elsewhere under the Code. *United States* v. *Correll,* 389 U.S. 299, 306. But it is the function of the Regulations, in the first instance, to choose among such alternatives. As this Court has repeatedly emphasized, "[t]he role of the judiciary * * * begins and ends with assuring that the Commissioner's regula-

tions fall within his authority to implement the congressional mandate in some reasonable manner." *Id.* at 307. Accord: *Bingler* v. *Johnson,* 394 U.S. 741, 749–751; *Commissioner* v. *South Texas Co.,* 333 U.S. 496, 501. The Regulations resolve the deferred and uncollected premium question in a manner that is both consistent with the structure of the 1959 Act and in accord with basic accounting logic. Possible alternative approaches notwithstanding, these Regulations represent a "reasonable and valid exercise of the [Commissioner's] rule-making power" (*Commissioner* v. *Wheeler,* 324 U.S. 542, 546), and should therefore be sustained.

CONCLUSION

For the reasons stated above and in our opening brief, the judgment of the court of appeals should be reversed.

Respectfully submitted.

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COMMISSIONER OF INTERNAL REVENUE,
Petitioner

v.

STANDARD LIFE & ACCIDENT INSURANCE COMPANY,
Respondent

On Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE, WITH BRIEF ATTACHED

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1976

No. 75-1771

COMMISSIONER OF INTERNAL REVENUE,
Petitioner
v.
STANDARD LIFE & ACCIDENT INSURANCE COMPANY,
Respondent

On Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

Amicus Curiae, The Lincoln National Life Insurance Company (hereinafter "Lincoln"), respectfully requests this Court, pursuant to Rule 42(3) of the Rules of this Court, to allow it to file the attached Brief Amicus Curiae in this case. This short Brief is addressed to the question of the deductibility of agents' commissions and state premium taxes on deferred and uncollected premiums (hereinafter sometimes referred to as "the expense deduction issue"). This question is of principal importance to Amicus Curiae, and its interests are not represented adequately by the parties.

Standard Life & Accident Insurance Company (hereinafter "Standard Life") has consented in writ-

ing to the filing of an amicus brief by Lincoln. The United States, however, has refused to consent on the ground (which we believe is erroneous) that there will be no occassion for this Court to address the expense deduction issue.

As reasons for this motion, Lincoln states that it currently has pending in the United States Court of Claims the issue of the deductibility of agents' commissions and state premium taxes on deferred and uncollected premiums. *Lincoln National Life Insurance Company* v. *United States,* Ct. Cl. No. 521-69. On November 12, 1976, Trial Judge Fletcher of the Court of Claims filed his recommended decision and conclusions of law holding, consistent with all courts which have decided the issue, that Lincoln is entitled to deduct agents' commissions and premium taxes on deferred and uncollected premiums in the same year such premiums are taken into income. 38 A.F.T.R.2d 76-6126. The Court of Claims has stayed action on the Trial Judge's opinion on the issue pending this Court's decision in the case here.

The question of the deductibility of agents' commissions and premium taxes on deferred and uncollected premiums arises only if the primary litigating position of the United States as to the includibility of such premiums in the income of Standard Life (*viz.,* that the gross amount of such premiums must be included in income) is accepted by this Court. The United States Court of Appeals for the Tenth Circuit did not reach the expense deduction issue in its decision below since it rejected this position of the United States. Neither the petition for a writ of certiorari nor the Brief filed herein by the United States raises as an issue the deductibility of commissions and premium taxes on deferred and uncollected premiums. However, the Reply of Respondent, Standard Life, to the petition for certiorari (at p. 4, n. 3) called this Court's attention to the line of prior cases, all of which have held that a life insurance company is entitled to such a deduction when the gross amount of such premiums is taken into income, and we understand that the expense deduction issue is in fact involved in this case. Thus, the interest of Lincoln will become direct and substantial if this Court, in deciding the *Standard Life* case, accepts the primary litigating position of the United States that the gross amount of deferred and uncollected premiums is to be taken into the income of a life insurance company and proceeds to a determination of the then ultimate remaining question of the expense deduction for commissions and premium taxes. Since the United States is not addressing this point directly and since we expect that Respondent will address the issue only in summary fashion, a short brief on this point is both appropriate and necessary.

Respectfully submitted,

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Respondent

On Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

---

BRIEF OF THE LINCOLN NATIONAL LIFE INSURANCE COMPANY, AMICUS CURIAE

INTEREST OF AMICUS CURIAE

Amicus Curiae, The Lincoln National Life Insurance Company (hereinafter "Lincoln"), currently has pending in the United States Court of Claims an action for refund of income taxes paid, in which one issue is whether, under section 809(d)(11) of the Internal Revenue Code,[1] Lincoln may deduct, in computing its taxable income, the amount of agents' commissions and state premium taxes on deferred and uncollected

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[1] Herein, all statutory references are to the Internal Revenue Code of 1954, as amended, unless otherwise indicated.

premiums in the same year that such premiums are taken into account *gross*.[2] (The Commissioner of Internal Revenue, upon audit, included the gross amount of such premiums in Lincoln's income and assets.) *Lincoln National Life Insurance Company* v. *United States,* Ct. Cl. No. 521-69. On November 12, 1976, Trial Judge Fletcher filed his recommended decision and conclusions of law holding, consistent with all courts which have decided the issue, that Lincoln is entitled to that deduction in the same year such premiums are taken into income. 38 A.F.T.R.2d 76-6126. The Court of Claims has stayed action on the Trial Judge's opinion on the issue pending this Court's decision in the case here.

The United States Court of Appeals for the Tenth Circuit did not reach the expense deduction issue in its decision below since it rejected the primary litigation position of the United States, *viz.,* that the gross amount of deferred and uncollected premiums must be included in income. Neither the petition for a writ of certiorari nor the Brief filed herein by the United States raises as an issue the deductibility of agents' commissions and premium taxes on deferred and uncollected premiums. However, the Reply of Respondent to the petition for certiorari (at p. 4, n. 3) called this Court's attention to the line of prior cases, all of which have held that a life insurance company is entitled to such a deduction when the gross amount of such premiums is taken into income, and we understand that the expense deduction issue is in fact involved in this case.

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[2] Hereinafter, for convenience, this issue is sometimes referred to as "the expense deduction issue."

The issue becomes pertinent if this Court determines that *gross* deferred and uncollected premiums are included as "premiums" under section 809(c)(1).[3] Amicus Curiae, Lincoln, addresses itself in this Brief solely to that final issue which, if reached and decided in this case, will affect its interests directly.

The facts in this case have been fully briefed and will not be repeated here.

Respondent, Standard Life & Accident Insurance Company, has consented in writing to the filing of this

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[3] The expense deduction issue emerges as the final element for decision if the gross amount of such premiums, as the Government's consistent primary litigating position and uniform administrative and enforcement position would require, are to be included in both assets and income. The issue becomes equally pertinent if such premiums must be included in income in the gross amount, but in assets only in the amount of the net valuation premiums. This latter determination may be founded upon the pertinent statutes and regulations. It would be consistent, as section 818(a) of the Internal Revenue Code mandates, with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners. This determination may be reached by a careful review and consistent application of Treas. Reg. § 1.801-5(b) (annual statement life insurance reserves are "required by law" and include those for policies on which premiums are deferred and uncollected), Treas. Reg. § 1.805-5(a)(4)(i) and particularly Example 1 in subparagraph (ii) (where the absence of specification that deferred and uncollected premiums should be included in assets gross strongly and significantly suggests the inclusion of net valuation premiums, the *only result* "consistent with the manner required for purposes of the annual statement"), Treas. Reg. § 1.809-4(a)(1)(i) (including deferred and uncollected premiums in the definition of "the gross amount of premiums"), and Treas. Reg. § 1.446-1(a)(2) (accounting method reflecting consistent application of generally accepted accounting principles in a particular business in accordance with accepted practices in that business will ordinarily be regarded as clearly reflecting income if all items of gross income and expenses are treated consistently from year to year).

Brief. The United States has refused to consent to the filing of the Brief, and, accordingly, a motion for leave to file the brief pursuant to Rule 42(3) of the Rules of this Court is filed herewith.

ARGUMENT

A LIFE INSURANCE COMPANY IS ENTITLED TO DEDUCT THE ANNUAL INCREASE IN AGENTS' COMMISSIONS AND PREMIUM TAXES ON DEFERRED AND UNCOLLECTED PREMIUMS IN THE SAME YEAR THE GROSS AMOUNT OF SUCH PREMIUMS IS TAKEN INTO ACCOUNT AS INCOME.

A. Introduction

All computations entering into the determination of life insurance company taxable income must be made on an accrual method of accounting or, to the extent permitted under regulations prescribed by the Secretary of the Treasury, under a combination of an accrual method with another permissible method (other than the cash receipts and disbursements method). Section 818(a)(1) and (2).[4]

Premiums are included in a life insurance company's income under section 809(c)(1) as part of the computation of "Gain and Loss from Operations" (as defined in section 809(b)(1) and (2)). A policyholder is not obligated to pay deferred and uncollected premiums. Therefore, a life insurance company would not bring them into income under traditional concepts of accrual accounting. Section 1.446-1(c)(1)(ii) of the Treasury Regulations; *North American Life and Casualty Company* v. *Commissioner*, 533 F.2d 1046 (8th Cir. 1976), *aff'g* 63 T.C. 364 (1974); *Federal Life Insurance Company (Mutual)* v. *United States*, 547 F.2d 1096 (7th Cir. 1975); *Great Commonwealth Life Insurance Co.* v. *United States*, 491 F.2d 109 (5th Cir. 1974); *Midland National Life Insurance Company*, 66 T.C. 550 (1976), appeal filed by taxpayer, 8th Cir., Nov. 15, 1976; *United Life & Accident Insurance Company* v. *United States*, 329 F.Supp. 765 (D.N.H. 1971). However, the Commissioner of Internal Revenue ("the Commissioner"), in reliance upon section 1.809-4(a)(1)(i) of the Treasury Regulations, requires that the gross amount of deferred and uncollected premiums be taken into account as income in the computation of a life insurance company's taxable income. It is the position of Amicus Curiae that, consistently, the annual increase in the "cost of collection" of such deferred and uncollected premiums (*e.g.*, agents' commissions and premium taxes), the payment of which is contingent solely on the collection of such premiums, should be taken into account as a deduction under section 809(d)(11)[5] in the same year that those premiums are taken into income.

There is no question that section 809(d)(11), incorporating the deductions allowed under section 162(a), permits a life insurance company, in computing gain and loss from operations, to deduct *at some time* agents' commissions and premium taxes. Thus, the

[4] Section 818(a) further provides that, except as provided in section 818(a)(1) and (2), all such computations shall be made in a manner consistent with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners.

[5] One of the deductions allowed a life insurance company in computing its gain or loss from operations is stated in section 809(d)(11) (section 809(d)(12) prior to P.L. 94-455) as follows:

> "OTHER DEDUCTIONS.—Subject to modifications provided by subsection (e) [not applicable here], all other deductions allowed under this subtitle for purposes of computing taxable income to the extent not allowed as deductions in computing investment yield.

simple issue presented here is one of timing *only*. As Trial Judge Fletcher stated in his recommended decision in the *Lincoln* case: "[T]he question is not 'whether' but 'when'." 38 A.F.T.R. 2d at 76-6130. All courts which have decided the issue have held that the concededly proper deduction for agents' commissions and premium taxes should be allowed in the same year that gross deferred and uncollected premiums are taken into income.

B. The Reported Decisions that Are Precisely in Point Support the Position of Amicus Curiae

It is a well established principle of tax law that, if an item of income is accrued and the only contingency with respect to expenses attributable to such income is collection of the income, such expenses must also be accrued. Consistent with this principle, each of the five courts which has thus far decided the question has held that the expenses of collecting deferred and uncollected premiums are deductible in the year such premiums are reflected in income. *North American Life and Casualty Company* v. *Commissioner, supra; Federal Life Insurance Company (Mutual)* v. *United States, supra; Great Commonwealth Life Insurance Company* v. *United States, supra; Midland National Life Insurance Company, supra; United Life & Accident Insurance Company* v. *United States, supra.* In addition, Trial Judge Fletcher of the United States Court of Claims in his recommended decision and conclusions of law followed the decisions of these courts. *Lincoln National Life Insurance Company* v. *United States*, 38 A.F.T.R. 2d 76-6126 (Ct. Cl. Nov. 12, 1976).

The District Court in New Hampshire, the first court to address the issue in *United Life & Accident Insurance Company* v. *United States, supra*, gave three reasons for permitting a deduction for expenses attributable to the collection of deferred and uncollected premiums in the year such premiums are taken into account in the computation of income. The court first focused on the fact that deferred and uncollected premiums are not accruable under general principles of accrual accounting because a policyholder is not obligated to pay such premiums. The court held that, if the Commissioner of Internal Revenue nevertheless is permitted to require the accrual of deferred and uncollected premiums, the determinable expenses of collecting such premiums similarly must be accrued. The court stated:

> "Once it is assumed that deferred and uncollected premiums have accrued, then the expense portion of those premiums has also of necessity accrued. If collection is assumed for income purposes, then it should be assumed for expense purposes. Consistency requires that the same assumption that is applied to income from deferred and uncollected premiums be applied to the expenses associated with those premiums." 329 F. Supp. at 774.

The second reason advanced by the court was that its decision was consistent with accounting procedures specified in the uniform form of Annual Statement prescribed by the National Association of Insurance Commissioners and required to be filed by a life insurance company. 329 F. Supp. at 774.

Finally, the court pointed to the testimony of the Government's own witness and held that its conclusion was mandated by the necessity for clearly reflecting the income of a life insurance company:

> "The final and most compelling reason is that this deduction will result in a clear reflection of income. An accrual method may comport with generally accepted accounting principles, but at the same time not clearly reflect income. The government's insurance accounting expert testified that to clearly reflect income, an expense deduction should be allowed." 329 F. Supp. at 774 (Emphasis added.)

In *Great Commonwealth Life Insurance Company* v. *United States, supra,* the United States Court of Appeals for the Fifth Circuit held that agents' commissions on deferred and uncollected premiums are deductible in the year such premiums are taken into account in the computation of income.[6] The court began its analysis by noting that since the "all events" test is not satisfied with respect to the expenses of collecting deferred and uncollected premiums,[7] "[t]here is no doubt that the government is entirely correct when it asserts that these agents' commissions are not accruable under generally accepted accounting principles." 491 F.2d at 113. However, the court recognized that the issue does not end at that point, since deferred and uncollected premiums taken into account

[6] The question of the deductibility of premium taxes contingent only on the collection of deferred and uncollected premiums was not raised by the taxpayer in *Great Commonwealth.*

[7] The "all events" test as applied to the deductibility of expenses is described in section 1.461-1(a)(2) of the Treasury Regulations, which provides that "[u]nder an accrual method of accounting, an expense is deductible for the taxable year in which all the events have occurred which determine the fact of the liability and the amount thereof can be determined with reasonable accuracy. . . . [N]o accrual shall be made in any case in which all of the events have not occurred which fix the liability. . . ."

as income by the Comissioner do not themselves satisfy the "all events" test.[8]

The court went on to note that an insurance company's taxable income is distorted when deferred and uncollected premiums, an item as to which there is no right to compel payment, are reflected in gross income. 491 F.2d at 114. In the court's view, the only feasible method of correcting this distortion is to accrue in the same year the commissions on deferred and uncollected premiums. The court said:

> "It would only distort that income yet further not to permit the company to accrue the commission expense deductions, which are only contingent to the same extent that receipt of the premiums themselves is contingent." 491 F.2d at 114.

In *North American Life and Casualty Company, supra,* the United States Tax Court held that the taxpayer was entitled to deduct commissions on deferred and uncollected premiums in the same year such premiums are included in income.[9] The court rejected the Government's contention that the taxpayer was not entitled to accrue deductions for such commissions because they are subject to the contingency of collecting the premiums:

> "This contention, however, ignores the assumption utilized to require accrual of the premium

[8] The "all events" test as applied to the inclusion of income is described in section 1.451-1(a) of the Treasury Regulations, which provides that "[u]nder an accrual method of accounting, income is includible in gross income when all events have occurred which fix the right to receive such income and the amount thereof can be determined with reasonable accuracy."

[9] The question of the deductibility of premium taxes contingent only on the collection of deferred and uncollected premiums was not raised by the taxpayer in *North American Life.*

income. Once the fiction of annual receipt of premiums is accepted, it must be applied for all purposes. Upon receipt of premiums, it is clear that a liability to pay commissions arises. Assumption of receipt of premiums necessarily requires recognition of the concomitant liabilities, for the petitioner cannot receive premiums without incurring corresponding commission expenses. Both the accrual of income and deduction of commissions are subject to the same contingency, that is, the receipt of the premiums. Respondent cannot ignore the contingency in requiring accrual of income yet assert such contingency in determining the accrual of related deductions." 63 T.C. at 373.

The Eighth Circuit, in June 1976, affirmed the decision of the Tax Court in *North American Life.* The Tax Court thereafter followed the *North American Life* decision in *Midland National Life Insurance Company, supra.*

The Seventh Circuit, in *Federal Life Insurance Company (Mutual)* v. *United States, supra,* also sustained the position advanced here by Amicus Curiae. It is particularly noteworthy that the Court of Appeals specifically rejected in that case the Government's contention that its earlier holding in *Franklin Life Ins. Co.* v. *United States,* 399 F.2d 757 (7th Cir. 1968), *cert. denied,* 393 U.S. 1118 (1969), denying a deduction for "loading," precluded a deduction for the expenses in question.

Trial Judge Fletcher of the United States Court of Claims, in his recommended decision and conclusions of law filed in *Lincoln National Life Insurance Co.* v. *United States, supra,* adopted the holdings of these five courts and held that Lincoln is entitled, in computing its gain from operations, to deduct under section 809(d)(11) the increase in agents' commissions and

premium taxes on deferred and uncollected premiums in the same year the gross amount of such premiums is taken into income under section 809(c)(1). In the words of Trial Judge Fletcher:

> "Lincoln's contention is so clearly correct that it has been sustained by every court which has thus far directly considered the question." 38 A.F.T.R. at 76-6129

C. Established Principles of Tax Law Require that Commissions and Premium Taxes on Deferred and Uncollected Premiums Be Taken Into Account in the Same Year Such Premiums Are Reflected in Income

It is a long-standing and established principle that, if an item of income is accrued and the only contingency with respect to expenses attributable to such income is collection of the income, such expenses must also be accrued. The seminal case for this principle is *Warren Co.,* 46 B.T.A. 897 (1942), *aff'd* without discussion of this issue, 135 F.2d 679 (5th Cir. 1943). The case involved a company's liability for commissions payable to its agents when payments were received under conditional sales agreements. The Board of Tax Appeals held, in an opinion acquiesced in by the Internal Revenue Service, 1942-2 C.B. 19, that such commissions were accruable and deductible in the year that the income was accrued, stating:

> "It seems equally clear that petitioner should have the right to accrue against the above mentioned income items its liability to pay the agents' commissions thereon. The contract which petitioner had with its agents definitely provided that the company would pay the agent as his selling commission 'the difference between the selling price and the company's net price.' True, it is that certain portions of this commission were not to be paid to the agent until collections were made

from the customers but the *liability to pay these commissions was just as certain as payment of the notes was certain, no more and no less.* If payment of these notes receivable was sufficiently certain to justify their accrual as gross income, and we have held it was, we think the obligation of petitioner to pay agents' commissions was sufficiently certain to justify their accrual as liabilities." 46 B.T.A. at 913-14 (Emphasis added.)

Also in point are the cases of *Air-Way Electric Appliance Corp.* v. *Guitteau,* 123 F.2d 20 (6th Cir. 1941), and *Ohmer Register Co.* v. *Commissioner,* 131 F.2d 682 (6th Cir. 1942), both holding that reserves for sales agents' commissions are accruable in the year the sales are taken into income, even though the revenue from such sales had not as yet been received. *Accord, Central Cuba Sugar Co.* v. *Commissioner,* 198 F.2d 214 (2d Cir.), *cert. denied,* 344 U.S. 874 (1952). All of the cases cited above were reaffirmed in the recent case of *W.S. Badcock Corp.* v. *Commissioner,* 491 F. 2d 1226 (5th Cir. 1974), and by *Field Enterprises, Inc.* v. *United States,* 348 F.2d 485, (Ct. Cl. 1965), *cert. denied,* 382 U.S. 1009 (1966).

These cases, it is obvious, proceed from the fundamental principle that, in order to reflect income clearly, as required by the Internal Revenue Code, expenses subject to precisely the same contingencies as income and to no other contingencies are to be deducted in the same year the income is taken into account.

Significantly, in discussing this line of cases in *North American Life,* the Tax Court observed:

> "[T]hese cases stand for the proposition that an item of income and its related deductions which are subject to the same fact of contingency should be treated alike for accrual purpose. In the present situation the contingency for accrual of income and deduction of commissions is the same. That is, the contingency for accrual is the collection of the deferred and uncollected premiums. *Having assumed for inclusion purposes that the contingency for collection is subject to the fiction that all premiums have been collected, we cannot treat the deduction of the related expenses on the basis that the fiction of collections did not exist."* 63 T.C. at 374 (Emphasis added.)

CONCLUSION

If taxpayer in the instant case is required under section 809(c)(1) to take the gross amount of deferred and uncollected premiums into account as income in computing its gain from operations, it is entitled to deduct under section 809(d)(11) the annual increase in agents' commissions and state premium taxes on such premiums (and any other determinable related expenses) in the same year such premiums are taken into income. All the cases which have addressed this precise issue have so held and are in total accord with established principles of tax accrual. If this Court reaches the issue, it should affirm those decisions.

Respectfully submitted,

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IN THE

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OCTOBER TERM, 1976

COMMISSIONER OF INTERNAL REVENUE,
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v.

STANDARD LIFE & ACCIDENT INSURANCE COMPANY,
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

BRIEF AS AMICUS CURIAE OF AMERICAN COUNCIL OF LIFE INSURANCE

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1976

No. 75-1771

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

v.

STANDARD LIFE & ACCIDENT INSURANCE COMPANY,
Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

BRIEF AS AMICUS CURIAE OF AMERICAN COUNCIL OF LIFE INSURANCE

This brief is submitted with the written consent of counsel to both parties filed with the Clerk of the Court.

Interest of the Amicus Curiae

The American Council of Life Insurance is a trade association with a membership of 444 companies engaged in the

life insurance business.[1] These companies account for 92 percent of the legal reserve life insurance in force in the United States.

The issue here involves the treatment of deferred and uncollected premiums under the Life Insurance Company Income Tax Act of 1959 (sections 801-820 of the Internal Revenue Code of 1954, as amended)[2] (the "1959 Act"). This is a question of major importance affecting the federal income taxation of every life insurance company.

Lower Court Decisions

No fewer than five different results have been reached in seeking to resolve the issue presented here. For the convenience of the Court, we describe them:

(1) The first result, that reached by the Tenth Circuit in this case and advocated by the taxpayer, would include no portion of deferred and uncollected premiums in either assets or income.

(2) The second result, that favored by the Tax Court, reached by one district court and advocated by the *amicus*, would include no more than *net* deferred and uncollected premiums in both assets and income.[3]

(3) The third result, that reached initially by the Fourth, Fifth, Sixth and Seventh Circuits and advocated by the government as its "primary position", would include *gross* deferred and uncollected premiums in both assets and income.[4]

[1] The American Council of Life Insurance came into being through merger in 1976 of the American Life Insurance Association (successor to the American Life Convention and the Life Insurance Association of America) and the Institute of Life Insurance.

[2] Unless otherwise indicated, section references are to the Internal Revenue Code of 1954 (the "Code").

[3] *Western Nat'l Life Ins. Co.*, 50 T.C. 285 (1968), *mod.*, 51 T.C. 824 (1969), *rev'd*, 432 F.2d 298 (5th Cir. 1970); *Western and Southern Life Ins., Co.*, 55 T.C. 1036 (1971), *rev'd*, 460 F.2d 8 (6th Cir. 1972), *cert. denied*, 409 U.S. 1063 (1972); *cf. Bankers Union Life Ins. Co.*, 62 T.C. 661 (1974); *Franklin Life Ins. Co.* v. *U.S.*, 19 AFTR2d 1734, 67-2 U.S.T.C. ¶ 9515 (S.D. Ill. 1967), *rev'd*, 399 F.2d 757 (7th Cir. 1968), *cert. denied*, 393 U.S. 1118 (1969).

(4) The fourth result, that reached more recently by a number of lower courts (including the Fifth and Seventh Circuits) would include *gross* deferred and uncollected premiums in income[5] and assets[6], but would allow a reduction for expenses associated with their collection.

(5) The fifth result, that recommended by one trial judge in the Court of Claims and advocated by the government as its "alternative position", would include no portion of deferred and uncollected premiums in either assets or income but would reduce reserves by amounts equal to the net valuation portion of such premiums.[7]

[4] *Franklin Life Ins. Co.* v. *U.S.*, 399 F.2d 757 (7th Cir. 1968), *rev'g* 19 AFTR2d 1734, 67-2 U.S.T.C. ¶ 9515 (S.D. Ill. 1967), *cert. denied*, 393 U.S. 1118 (1969); *Jefferson Standard Life Ins. Co.* v. *U.S.*, 408 F.2d 842 (4th Cir. 1969), *aff'g in part, rev'g in part*, 272 F.Supp. 97 (D. N.C. 1967), *cert. denied*, 396 U.S. 828 (1969); *Western Nat'l Life Ins. Co.* v. *Commissioner*, 432 F.2d 298 (5th Cir. 1970), *rev'g* 51 T.C. 824 (1969), *modifying* 50 T.C. 285 (1968); *Western and Southern Life Ins. Co. v. Commissioner*, 460 F.2d 8 (6th Cir. 1972), *rev'g* 55 T.C. 1036 (1971), *cert. denied*, 409 U.S. 1063 (1972).

[5] *Great Commonwealth Life Ins. Co.* v. *U.S.*, 491 F.2d 109 (5th Cir. 1974); *Federal Life Ins. Co.* v. *U.S.*, 527 F.2d 1096 (7th Cir. 1975); *North American Life & Casualty Co.* v. *Commissioner*, 533 F.2d 1046 (8th Cir. 1976), *aff'g* 63 T.C. 364 (1974); accord, *United Life & Accident Ins. Co.* v. *Commissioner*, 329 F.Supp. 765 (D. N.H. 1971); *Midland Nat'l Life Ins. Co.* v. *Commissioner*, 66 T.C. 550 (1976).

[6] In *Bankers Life Co.* v. *U.S.*, 412 F.Supp. 62 (S.D. Iowa, 1976), the excess of gross over net deferred and uncollected premiums (*i.e.*, the loading) was held to have been excludable from assets on the ground that such excess constituted an asset used in an insurance business. But see *Republic Nat'l Life Ins. Co.* v. *U.S.*, 77-1 U.S.T.C. ¶ 9133 (N.D. Tex. 1976).

[7] *Monumental Life Ins. Co.* v. *U.S.*, 39 AFTR2d ¶ 77-306, 76-2 U.S.T.C. ¶ 9787 (Ct. Cl. 1976). On the other hand, a week earlier, another trial judge of the Court of Claims recommended that gross deferred and uncollected premiums be included in income, that a deduction be allowed for estimated expenses of collection and that, absent a statutory change, reserves could not be reduced. *Lincoln Nat'l Life Ins. Co.* v. *U.S.*, 38 AFTR2d 76-6126, 76-2 U.S.T.C. ¶ 9772 (Ct.Cl. 1976). The Court of Claims itself has not passed on any aspect of the question.

Thus, no court has allowed the government to make any reduction in reserves. Rather, the differences of opinion that have arisen have largely been with respect to the treatment of deferred and uncollected premiums in calculating assets and income.

Position of the Amicus Curiae

First and foremost, it is our position that Congress meant to afford full tax recognition to aggregate life insurance reserves as certified by the various state regulatory authorities and that, apart from certain exceptions specified in the statute, it meant no change in this regard from prior law. Regardless of how deferred and uncollected premiums are treated for asset and income purposes, whether includible in full, in part, or not at all, reserves as defined in section 801 of the Code should not be reduced on account of deferred and uncollected premiums.

Beyond this, whether Congress intended to include deferred and uncollected premiums in "assets" and "income" turns on whether it contemplated the application of normal tax rules and meanings to them, or whether it intended a special accounting treatment of these items because of their uniqueness to life insurance companies. If it intended that, in the computation of "taxable investment income" and "gain from operations", "assets" and "income" are to retain their normal tax meanings, the conclusion is inescapable that deferred and uncollected premiums are neither assets nor income and the decision below should be affirmed.

On the other hand, if Congress meant to supersede those meanings, the statutory reference in section 818(a) to "computations . . . in a manner consistent with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners" (hereinafter "NAIC") should control, since it is the only statutory provision sanctioning a departure from normal tax rules. The Annual Statement, a mandatory and uniform accounting system for life insurance companies, has

for over 100 years required the inclusion of *net* (as opposed to *gross* as contended for by the government) deferred and uncollected premiums in assets. It follows that if Congress meant to depart from normal tax principles and require the inclusion of deferred and uncollected premiums in assets and income, it meant to adopt the Annual Statement treatment pursuant to which only net deferred and uncollected premiums are included in assets and income.

It is, and consistently has been, the position of the *amicus* and its predecessors that Congress intended that the NAIC treatment be followed. While the position of the *amicus* constitutes the position of the industry organization as a whole, not all companies subscribe to the view that we urge here. Some companies (including, of course, the taxpayer) believe that there are strong legal arguments to support the result reached by the court below.

Because we continue to believe that the correct result under the statute is that net deferred and uncollected premiums should be included in assets and income, our arguments here are directed to this point. Should this Court not agree, we respectfully suggest that the most appropriate result is the one reached by the Tenth Circuit below.

Statement

The applicable Code provisions and the facts of this case are recited in the government's brief. (P. Br. 3-15).[8] The *amicus* submits, however, that the government's statement is misleading in at least three significant respects.

First, the government suggests that the amount of a life insurance company's reserve is dependent on the amount of premiums actually received. The fact is that life insurance reserves are required to be computed with respect to *all policies in force* at the end of the year on the basis of the *net* premiums that are *assumed* to have been received,

[8] References herein to "P. Br." are to the government's brief.

irrespective of what gross premiums may have in fact been paid by the policyholders. It is stipulated that the taxpayer in this case was "required . . . to compute its reserves . . . on the assumption that premiums were paid up one year in advance on each anniversary date . . . of the policy, even though premiums were not usually paid in this manner." (Stip. par. 11, p. 17; Pet. App. A 3a, App. B 11a).[9] The reserves so computed are the required reserves both for purposes of Oklahoma law and for purposes of the Code.

Second, the government states that the insurer has no obligation to continue the insurance coverage beyond the period for which premiums have been paid. This ignores the fact that whether the insurance will be continued is a matter wholly beyond the control of the company. Accordingly, so long as a policy is in force, the company's contingent liability ("risk") is for the entire life of the insured.[10]

Third, the government wrongly states that the computation of taxable investment income is controlled by the ratio of reserves to assets.[11] The government goes on to argue that it is justified in adding loading to the net deferred and uncollected premiums shown in assets on the balance sheet by the necessity of maintaining its erroneous ratio in the computation of taxable investment income. This is a complete *non sequitur* because there is no correlation whatever between the ratio of net to gross premiums and the ratio of reserves to assets.

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[9] References herein to "Pet." are to the petition for a writ of *certiorari*.

[10] Moreover, if a premium is not paid, under the non-forfeiture provisions the company may remain liable for the full coverage for an extended period of time without receiving any future premiums at all.

[11] While it is true that an increase in reserves decreases the tax and an increase in assets increases the tax, the faulty algebra used by the government to derive its erroneous ratio (P. Br. 6, 40) is apparent if one follows the statutory provisions which it more accurately describes in n. 6 (P. Br. 6). See also the example set forth in S. Rep. No. 291, 86th Cong., 1st sess. 18 (1959), 1959-2 Cum. Bull. 770, 783.

The government argues that if it does not prevail on its primary position, then alternatively the reserves required by state law should be reduced on account of deferred and uncollected premiums. There is no basis for that extreme position, and, in the *amicus'* view, it should be rejected out of hand.[12] But since the government has seen fit to inject it into the case, the *amicus* has no choice but to respond. We do so not only because the government's alternative would unsettle what has been settled since the very beginnings of the income tax, but also because it would have a most serious financial impact on the entire life insurance industry. Accordingly, the *amicus* addresses the government's alternative position first. Thereafter, we address those issues that are genuinely in controversy, *i.e.*, the proper treatment of deferred and uncollected premiums in calculating assets and income.

Summary of Argument

I

In 1909, Congress provided a deduction for federal excise tax purposes based on reserves of a life insurance company required by state law. It adopted the same approach in the first income tax act, that of 1913, and in every successive income tax statute, including the Life Insurance Company Income Tax Act of 1959. Among the reserves required by state law are reserves for all policies in force, including those on which premiums are deferred or uncollected. Thus, as to such policies, it was stipulated here that state law requires reserves to be computed on the assumption that all premiums are paid on the anniversary date of a policy, regardless of when premiums have actually been received.

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[12] It was stipulated that taxpayer's "reserves [computed on the assumption that premiums were paid annually in advance] were reflected as a liability of [taxpayer] and, as required by the [Code], were taken into account in the computations required under sections 805 and 809 on the . . . tax returns". Stip. par. 11, p. 17, *supra*.

There can be no doubt at this late date that, in keeping with Congress' overall approach to reserves that the federal tax law is to follow state law, reserves for tax purposes are not to be reduced on account of deferred and uncollected premiums. This precise issue was raised and decided as early as 1918, and the Bureau of Internal Revenue itself concurred in that result in 1921. Furthermore, Congress on numerous occasions from 1921 through 1957, and in the 1959 Act itself, changed the provisions for reserve deductions and prescribed certain specific exceptions to the general rule that reserves for tax purposes are those required by state law. But it at no time intimated that there was to be any change in the established treatment of reserves for policies with deferred and uncollected premiums.

Despite Congress' unequivocal record over a period of 50 years, the government contends in the alternative that, if gross deferred and uncollected premiums are not included in assets and income, reserves must be reduced accordingly. The government claims no support for this argument in the statute, the legislative history, applicable state law, or industry practice, and there is none. Rather, the government relies on a regulation which purports to mandate this result. By no stretch of the imagination can this regulation be considered an interpretation of the 1959 Act; nor is there basis for respectable argument that Congress authorized the promulgation of any such rule. For these reasons, the regulation is invalid.

In any case, the regulation is inapplicable because, by its terms, it applies only if deferred and uncollected premiums are excluded entirely from assets and income. Our position here, however, is that such premiums should not be excluded entirely, but that the net amount thereof is properly includible in assets and income.

II

The government's "primary position"—that gross deferred and uncollected premiums must be included in assets

and income—similarly has no merit. Under normal tax accounting rules, it is clear that since an insurance company has no legal right to such premiums, they constitute neither assets nor accruable income. The government does not contend otherwise.

Our position is that, but for the reference in section 818(a) of the Code to the NAIC Annual Statement, normal tax accounting rules would apply and deferred and uncollected premiums would be excludable in their entirety from assets and income. It is further our position that, in view of that reference, any departure from normal tax accounting rules must accord with the prescribed NAIC treatment. Under consistently applicable NAIC rules, only the net portion of deferred and uncollected premiums is includible in assets and income and, therefore, only that portion should be includible in assets and income for tax purposes.

The government claims that neither normal tax accounting rules nor established NAIC rules should be followed. Its principal argument is that, since it is assumed in computing reserves that all net premiums are paid on the anniversary date of a policy, consistency and symmetry demand that, in calculating assets and income, it be assumed that all gross premiums are paid annually in advance. Accordingly, the government would require the inclusion of gross deferred and uncollected premiums in assets and income.

In advancing this contention, the government ignores the fact that a life insurance company necessarily will incur expenses in the process of collecting deferred and uncollected premiums, and that these expenses will reduce assets and income. Yet the government nowhere states that it would permit a reduction in assets and income to reflect such expenses. In consequence, the government's theory would produce the bizarre result that a company with deferred and uncollected premiums will have greater assets and income than one that has in fact received an equivalent amount of premiums in cash.

Finally, while the linchpin of the government's argument is the need for consistency, the government itself refuses to be consistent. To be totally consistent, both assets and income would have to be reduced by estimated expenses of collection of deferred and uncollected premiums. However, as indicated above, the view of the *amicus* is that Congress intended to adopt the well-understood approach of the NAIC. It did so, not to achieve the notion of symmetry advocated by the government, but because that approach was practical, in accord with longstanding requirements of state regulatory authorities and clearly reflects income.

Argument

I. Since 1909, Life Insurance Reserves "Required by Law" for Purposes of Federal Income Taxation Have Been the Reserves Certified To by the State Regulatory Authorities Without Reduction on Account of Deferred and Uncollected Premiums

A. Tax recognition of life insurance reserves based on state requirements

The computation of life insurance reserves has long been the exclusive province of state law. Congress confirmed the preeminent role of the states in life insurance matters when it enacted the McCarran-Ferguson Act (15 U.S.C. §§ 1011-1015), and this Court has acknowledged the states' authority to set "reasonable minimum reserve standards for the protection of policyholders." *Robertson* v. *California*, 328 U.S. 440, 459 (1946).

This is no less so in tax matters than in substantive life insurance matters. The cornerstone of life insurance company tax treatment in each of the statutes covering life insurance companies since 1909 has been recognition that "life insurance companies are required by law to maintain policyholder reserves to meet future claims, that they normally add to these reserves a large portion of their investment income and that these annual reserve increments

should not be subjected to tax." *United States* v. *Atlas Life Ins. Co.*, 381 U.S. 233, 236 (1965).[13]

The legally required life insurance reserve, a creature of state law and a product of actuarial science, is an estimate of the present value of unaccrued policy obligations. State laws and regulations impose standards governing the assumptions and estimates that underlie the valuation of legally required life insurance reserves. Amounts of insurance in force at year-end are multiplied by reserve factors that are established on the basis of a number of state approved actuarial assumptions. In the case of ordinary life insurance, these have customarily included, in addition to mortality and interest rates, the assumption that all net valuation premiums on policies in force are paid annually at the beginning of their respective policy years. Thus, as the government states (P.Br. 4), it was found below (Pet. 3a): "Pursuant to Oklahoma law, respondent was required to compute its reserves on its policies on the assumption that the annual premiums had been paid as of the anniversary date of the policy, whether or not this was the case."

In our view, nothing more is necessary to dispose of this aspect of the case. The reserves shown on the Annual Statement are the reserves required by law and constitute the "life insurance reserves" to be used for tax purposes under sections 805 and 810.[14]

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[13] See also *Maryland Casualty Co.* v. *U.S.*, 251 U.S. 342 (1920), in which this Court expressly acknowledged the overriding importance of state regulatory authority in the recognition of reserves for tax purposes.

[14] Procedurally, life insurance reserves are computed by the company itself by applying factors, derived from published actuarial tables, to amounts of insurance in force by policy type at year-end. The figures are then submitted to the regulatory authority of the state of domicile. When and if approved, the domiciliary state regulatory authority issues a "certification of valuation of policies" which sets forth the dollar value of the aggregate of each type of reserve categorized with reference to the various mortality standards and interest assumptions previously approved by the state for the policies in question. The NAIC has prescribed a form to be used by an insurance company in preparing its Annual Statement. This form, which must be filed with a life insurance company's income tax return (see Treas. Reg. § 1.6012-2), provides for the setting forth of the life insurance reserves so certified.

B. *Prudential* v. *Herold*—Life insurance reserves and deferred and uncollected premiums

From the enactment of the Corporation Excise Tax of 1909[15] through the Income Tax Act of 1913[16] and until the Revenue Act of 1921,[17] life insurance companies were taxed on their total income with a deduction for "the net addition . . . required by law to be made within the year to reserve funds." Nearly 60 years ago, in *Prudential Ins. Co. of America* v. *Herold,* 247 F. 681 (D. N. J. 1918), the government challenged the assumption that underlies the present controversy. The taxpayer there computed its deduction for "the net addition . . . required by law to be made within the year to reserve funds" with reference to the reserve valuation certified by the New Jersey Commissioner, which included policies having premiums that were deferred and uncollected. The government argued that since the taxpayer was on the cash basis of accounting, it was not entitled to credit for the full value of the reserves on such policies because the deferred and uncollected premiums had not been included in taxable income. The court examined and rejected this argument, setting the precedent for full recognition of life insurance reserves without reduction on account of deferred and uncollected premiums under all ensuing income tax statutes:

> "The question to be decided, therefore, is whether the plaintiff, in figuring its net addition to the reserve funds which it was required by law to make, was justified in including the value of such policies. The argument upon which the defendant's contention in this respect is based seems to be that as part of the assets making up the plaintiff's 'reserve' consisted of these uncollected and deferred premiums, and as they are not included in the plaintiff's gross income (as, clearly, they should not be so included, Mutual Benefit Life Ins. Co. v. Herold . . . [198 F. 199 (D. N. J. 1912)]; Conn. Gen. Life Ins. Co. v. Eaton . . . [218 F. 188 (D. Conn. 1914)]), that the value of such policies should not be included, for purposes of taxation, in its net addition to reserve funds. But this argument, I think, begs the question, which is, as clearly defined by the Supreme Court in McCoach v. Insurance Co. of North America, 244 U.S. 585, 37 Sup. Ct. 709, 61 L. Ed. 1333, what sum or sums in the aggregate did the state laws require the plaintiff to maintain as a 'reserve fund,' not the character of the assets making up the actual 'reserve funds.' No matter what their character, they were as effectively withdrawn from the plaintiff's use as if they had been expended. If therefore the law of New Jersey, or any other state in which it did business, made it obligatory on the part of the plaintiff to maintain a 'reserve' on account of the policies of the character in question, it is of no materiality what the 'reserve funds' actually consisted of, whether cash, securities, real estate, or due and uncollected premiums." 247 F. at 685-86 [Citations added].

[15] Act of August 5, 1909, ch. 6, § 38, 36 Stat. 113.

[16] Act of October 3, 1913, ch. 16 II(G)(b), 38 Stat. 114.

[17] Ch. 136, § 245(a)(2), 42 Stat. 227.

Subsequently, the Bureau of Internal Revenue acquiesced in this reasoning and ruled not only that "generally speaking . . . [the aggregate reserve shown on] . . . the liability page of the [NAIC] annual statement . . . will be considered reserves as contemplated by the statute" but also *specifically* that "uncollected and deferred premiums cannot reduce reserves". Treas. Dept., Bureau of Internal Revenue, Bulletin H, Income Tax Rulings Peculiar to Life Insurance Companies (1921), Rulings 8 and 14, pp. 7 and 9.[18]

C. From 1921 through 1957, life insurance companies were taxed on their investment income with an allowance for interest on reserves required by law, without reduction on account of deferred and uncollected premiums

In 1921, the "total income" approach for life insurance companies was abandoned, and Congress substituted a tax

[18] Because of the limited availability of "Bulletin H" *amicus* has lodged with the Clerk, for the convenience of the Court, 40 xerox copies of the pages of "Bulletin H" pertaining to life insurance companies. In addition to the pages cited above, see 20 and 26.

based solely on investment income. Through 1957, this base remained the sole basis for taxation of income from the life insurance business. For most of these 37 years, the reserve interest allowance was computed by applying a specified interest rate to each company's reserves required by law. However, in no fewer than five instances, Congress altered the manner in which the allowance was to be computed.[19] But critical for present purposes is the fact that, despite these alterations, Congress at no time departed from the principle that, for tax purposes, life insurance company reserves are not to be reduced on account of deferred and uncollected premiums. This principle thus was well settled when Congress considered the bill which became the Life Insurance Company Income Tax Act of 1959.

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[19] From 1921 to 1931 each company deducted 4% of its *own* reserves without reduction on account of deferred and uncollected premiums. From 1932 to 1941 each company deducted 3.75% of its *own* reserves, again, without reduction on account of deferred and uncollected premiums. In 1942 this company-by-company approach was dropped and an industry-wide method of determining the deduction was substituted. There was no change, however, in respect of deferred and uncollected premiums. From 1942 to 1948 each company deducted a fixed percentage of its net income (the "Secretary's ratio") computed by the Secretary of the Treasury for the entire industry based in part (65%) on the prior year's actual reserve requirements for the industry computed without reduction on account of deferred and uncollected premiums and in part (35%) on the assumption that an investment income rate of return equal to 3¼% was required for the entire industry. For 1949 and 1950 the deduction was determined by the Secretary of the Treasury based entirely (instead of 65%) on the average reserve requirements for the industry for the preceding year. Here too the ratio was derived from reserves computed on the basis of net valuation premiums with no reduction on account of deferred and uncollected premiums. For the years 1951 through 1957 Congress in effect continued to tax the life insurance industry on a uniform percentage of net investment income. See generally Report on the Taxation of Life Insurance Companies, Subcommittee on Internal Revenue Taxation, Committee on Ways and Means, U.S. House of Representatives, December 31, 1958.

D. The 1959 Act: The changes that Congress made and those it did not make

The provisions of the 1959 Act as well as the exhaustive studies, hearings and reports accompanying it give no hint of any departure from the established pattern of accepting state certified life insurance reserves without any reduction on account of net deferred and uncollected premiums. This is important because in responding to Congressional requests for a more permanent basis for taxing life insurance companies, the Secretary of the Treasury, after specifically commenting on two possible adjustments to reserves, said:

> "At this time we have no recommendations for or against other specific reserve adjustments. . . . However, every departure from the allowance for policy reserves used in determining the net gain from operations reported in the annual statement to the State insurance departments would represent a complication which could be justified only by persuasive equity and technical considerations."[20]

On this record, without more, the only reasonable conclusion is that Congress, in enacting the 1959 Act, intended that life insurance reserves not be reduced on account of deferred and uncollected premiums in determining life insurance company taxable income.

This conclusion is reinforced by the fact that Congress, in the 1959 Act, provided for five adjustments to life insurance company reserves as determined for state regulatory purposes.[21] It did so only after the most careful

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[20] Hearings before the Subcommittee on Internal Revenue Taxation of the Committee on Ways and Means, 85th Cong., 2d Sess., 5, November 17-20, 1958; Hearings before the Committee on Finance, 86th Cong., 1st Sess., 513, March 3-5, 17-19, 1959.

[21] Four of these adjustments are mandatory: the elimination of deficiency reserves by section 801(b)(4); the "10 for 1" rule set

(*footnote continued*)

consideration and the reasons for each of these changes are fully documented in the reports of the tax-writing committees.[22]

Thus, although Congress in 1959 comprehensively examined the functions and purposes of life insurance reserves for tax purposes, it did not provide for any adjustment to reserves required by law on account of deferred and uncollected premiums.

Given these circumstances, it seems clear that if Congress had intended such an adjustment it would have said so. This is underscored by the realization that any reduction of reserves on account of deferred and uncollected premiums would have had a very substantial tax impact. The proponents of the 1959 Act repeatedly emphasized that, except for the changes specified, the Act was not intended to disturb the traditional assumptions underlying reserve valuations. Thus, the Chairman of the House Ways and Means Committee, in introducing the legislation to the full House, stated:

> "[T]he committee has no intention of placing jurisdiction of the management of insurance company reserves within the hands or powers of the Commissioner of Internal Revenue.• • •
>
> "We are trying to preserve as best we can in this bill the management of this industry in the hands of

(*footnote continued*)

forth in section 805(c); the adjustments for certain transfers of liabilities in section 806(a); and the treatment of changes of basis in computing reserves set forth in sections 806(b) and 810(d). The other adjustment, which is optional, is set forth in section 818(c), and permits a life insurance company computing its reserves on a preliminary term basis to revalue such reserves on a net level premium basis.

[22] H.R. Rep. No. 34, 86th Cong., 1st Sess. 11, 17-19, 22, 26-27, 29, 32, 42 (1959), 1959-2 Cum. Bull. 736 *et seq.*; S. Rep. No. 291, 86th Cong., 1st Sess. 15, 19, 30-31, 34, 42, 49, 51-52, 57, 73 (1959), 1959-2 Cum. Bull. 770 *et seq.*

> the State regulatory agencies and not to change in any way that situation so as to turn over to the Commissioner of Internal Revenue, the Secretary of the Treasury, or anyone else in Washington the regulatory authority.
>
> ". . . We are not saying that a company may not accumulate reserves if the state regulatory body tells it to accumulate reserves. We are not levying a tax on the accumulation of those reserves." 105 Cong. Rec. 2569, 2476-77 (1959).

The Senate report accompanying the new law confirms that, except for the changes specified, the definition of life insurance reserves (section 801(b) of the Code, as amended) "is the same as that contained in . . . existing law."[23] Prior to the 1959 Act, the definition of life insurance reserves derived from section 201(c)(2) of the 1939 Code, added by the Revenue Act of 1942. The committee reports accompanying the 1942 Act both state that the statutory definition "is substantially that contained for many years in the regulations."[24] Accordingly, there is no indication of a shift in congressional policy with respect to these reserves, and there is strong evidence that no shift was intended.

The 1959 Act Regulations continue to use language comparable to that contained in regulations going back through the Revenue Act of 1921 to the effect that:

> "In determining total reserves, a company is permitted to make use of the highest aggregate reserve required by any State or Territory or the District of Columbia in which it transacts business, but the reserve must

[23] S. Rep. No. 291, *supra*, at 42; see also H.R. Rep. No. 34, *supra*, at 22.

[24] H.R. Rep. No. 2333, 77th Cong., 1st Sess. 109 (1942), 1942-2 Cum. Bull. 372, 454; S. Rep. No. 1631, 77th Cong., 2d Sess. 145 (1942), 1942-2 Cum. Bull. 504, 612.

have been actually held during the taxable year for which the reserve is claimed." Treas. Reg. §1.801-5(a).

Moreover, "reserves required by law" are defined as

> "reserves which are required either by express statutory provisions or by rules and regulations of the insurance department of a State, Territory, or the District of Columbia when promulgated in the exercise of a power conferred by statute and which are reported in the annual statement of the company and accepted by state regulatory authorities as held for the fulfillment of the claims of policyholders or beneficiaries." Treas. Reg. § 1.801-5(b).

If more were needed, it is found in the very explicit language of Treas. Reg. § 1.6012-2(c) which provides in part:

> "(c) Insurance companies.—(1) Life insurance companies.—A life insurance company subject to tax under section 802 or 811 shall make a return on Form 1120L. There shall be filed with the return (i) a copy of the annual statement, the form of which has been approved by the National Association of Insurance Commissioners, which is filed by the company for the year covered by such return with the Insurance Departments of States, Territories, and the District of Columbia, and which shows the reserves used by the company in computing the taxable income reported on its return, and (ii) copies of Schedule A (real estate) and Schedule D (bonds and stocks) of such annual statement."

Overall, the regulations exemplify and implement the intent of Congress to continue recognition of those life insurance reserves certified by the states.[25]

[25] Compare the 1959 Act regulations with Reg. 62., Art. 681 (issued under the 1921 Act), and Bulletin H, *supra*, 20.

The five Courts of Appeals that have considered the question presented here have made no adjustment in life insurance reserves on account of deferred and uncollected premiums. This result is solidly supported by the statute, its legislative history, prior statutes and applicable case law.

In the face of this evidence, the government's primary position concedes that reserves are not to be reduced on account of deferred and uncollected premiums. The government contends in the alternative, however, that if deferred and uncollected premiums are not included at gross in assets and income, the net deferred and uncollected premiums are to be subtracted from reserves. In advancing this alternative the government relies on Treas. Reg. § 1.801-4(f) which provides:

> "In the event it is determined on the basis of the facts of a particular case that premiums deferred and uncollected and premiums due and unpaid are not properly accruable for the taxable year under section 809 and, accordingly, are not properly includible under assets (as defined in section 805(b)(4)) for the taxable year, appropriate reduction shall be made in the life insurance reserves. This reduction shall be made when the insurance company has calculated life insurance reserves on the assumption that the premiums on all policies are paid annually or that all premiums due on or prior to the date of the annual statement have been paid."

The government cites no basis for this strongarm regulation, and we know of none. Quite apart from the fact that it was promulgated without prior notice,[26] this regulation disregards a half-century of uniform tax treatment of reserves. It is unsupported by even a single word of the 1959 Act. Indeed, not even the voluminous legislative history of

[26] *See* Administrative Procedure Act, § 3(b), 5 U.S.C. § 553(b).

the 1959 Act provides any justification for the government's alternative claim. Worse still, the regulation is punitive in its effect. By imposing a sanction, it discourages a life insurance company from having its tax liability determined in accordance with the law as Congress wrote it, rather than as the Treasury Department would have written it. It is, in short, a pernicious and, so far as we are aware, unique regulatory provision that should not be sustained. If the Internal Revenue Service is dissatisfied with the tax consequences under the 1959 Act, it should ask the Congress to change them. It has not been given blanket authority to rewrite the law.[27]

While we believe that the regulation is invalid—and patently so—we do not think it is necessary for the Court to reach this question, because, in our view, the regulation is by its own terms inapplicable in the circumstances presented here. Under Treas. Reg. § 1.801-4(f), a reduction in reserves is to be made only if deferred and uncollected premiums "are not properly accruable for the taxable year under section 809 and, accordingly, are not properly includible under assets (as defined in section 805(b)(4)). . . ." But our position here is that net deferred and uncollected premiums *are* properly accruable and hence includible in assets under the correct interpretation of sections 805 and 809. This being the case, there is neither cause nor need to invoke the

[27] The government cannot justify the regulation on the ground that it is needed to preclude what is perceived by the government to be an improper result. Congress was very much aware when it enacted the Life Insurance Company Income Tax Act of 1959 of the need to preclude improper results under the intricate scheme which it mandated—and it took careful and painstaking steps to prevent this. Thus, in section 818(e), Congress declared: "Nothing in this part shall permit the same item to be deducted more than once under subpart B and once under subpart C." Congress did not enact a second provision to the effect that, if gross deferred and uncollected premiums are not included in assets and income, life insurance reserves must be reduced by an amount equal to net deferred and uncollected premiums. Nor did it empower the Treasury Department to promulgate such a provision.

sanction of a reduction in the reserves which a life insurance company is required by law to maintain.[28]

Given the invalidity or the inapplicability of the regulation, the only question is whether and, if so, to what extent life insurance companies must include deferred and uncollected premiums, which they have no legally enforceable right to collect, in "assets" and "premiums" (as those terms are defined in sections 805(b)(4) and 809(c)(1)) for purposes of determining respectively their "taxable investment income" and "gain from operations." We turn now to this question.

II. Congress Intended Life Insurance Companies to Account for Deferred and Uncollected Premiums in Determining Their Assets and Income Under the 1959 Act in the Same Manner as Those Items Are Accounted For in the NAIC Annual Statement

A. Background

In 1959, Congress returned to a total income approach to the taxation of life insurance companies. Taxable investment income, the sole tax base from 1921 to 1957, became the base for the Phase I tax. Within that phase, the definition of taxable investment income began, as before, with net investment income. The reserve interest allowance, however, was to be computed under a formula that took into account a company's own investment "earnings rates" rather than industry-wide reserve interest requirements.

[28] Indeed, the concept of subjecting life insurance reserves to tax accruability requirements is based on a *non sequitur* because by definition life insurance reserves are held for "future *unaccrued* claims . . . involving . . . life . . . contingencies" [emphasis added] (Section 801(b)) and because they are exempted from the accounting rules provided for other items. See Treas. Reg. § 1.806-4, providing that a change in the basis for valuing reserves is not subject to rules for changes in accounting method. See also *Brown* v. *Helvering*, 291 U.S. 193 (1934), in which this Court noted that normal rules of accrual accounting do not apply to life insurance reserves.

"Gain from operations" became the base for the new Phase II and Phase III taxes. Such gain was defined as including both premium income and investment income.

The 1959 Act also added section 818 to the Code containing "Accounting Provisions" specifically applicable to life insurance companies. These provisions, among other things, required the companies to discontinue the use of the cash method of reporting for tax purposes.[29] The pertinent provisions of this section are as follows:

> "Sec. 818. Accounting Provisions.
>
> (a) Method of Accounting. All computations entering into the determination of the taxes imposed by this part shall be made
>
> (1) under an accrual method of accounting,
> or
>
> (2) to the extent permitted under regulations prescribed by the Secretary, under a combination of an accrual method of accounting with any other method permitted by this chapter (other than the cash receipts and disbursements method).
>
> Except as provided in the preceding sentence, all such computations shall be made in a manner consistent with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners."

It has generally been recognized by all of the courts that have considered the matter that deferred and uncollected premiums, which a life insurance company has no legally enforceable right to collect, are not assets in the ordinary sense of the word nor in an "investment" sense, and would not accrue as receivables under the generally

[29] Since 1951, the NAIC has required inclusion in the Annual Statement of a "Summary of Operations" prepared on "an accrual basis."

applicable rules of tax accrual accounting.[30] If Congress intended such rules to apply to deferred and uncollected premiums it seems inescapable that the court below correctly concluded that nothing is includible in either assets or premium income on account of deferred and uncollected premiums.

The terms "assets" and "gain from operations" had not been of critical importance in the taxation of life insurance companies prior to the 1959 Act. Nevertheless, the terms had previously been used and understood, in connection with the treatment of deferred and uncollected premiums, by insurance companies and state regulatory bodies in the Annual Statement prescribed by the NAIC.

Since 1871, "assets", as reflected in the Annual Statement, have included only net deferred and uncollected premiums. Reserves for policies in force, including those on which premiums are deferred and uncollected, are computed on the basis of net annual premiums and are reflected on the Annual Statement at Exhibit 8. The Statement requires, however, that net premiums (i.e., deferred and uncollected premiums excluding loading) also be reflected as assets. Where, as in this case, there are reserves reflected in the Annual Statement on account of policies with deferred and uncollected premiums, net deferred and uncollected premiums are reflected as assets on the balance sheet. Reserves are not dependent to any extent on loading. Accordingly, there is no inclusion of loading in assets.

In 1951, "gain from operations" was first reflected in the Annual Statement. Since that time, net gain from operations shown in the "Summary of Operations" likewise has reflected only net deferred and uncollected premiums. This means, that because the deduction for increases in

[30] The Tax Court initially found this result consistent with its concept of the purpose of the formula for determining taxable investment income, *i.e.*, that only assets producing investment income were includible. *Western Nat'l Life Ins. Co., supra,* 50 T.C. at 285.

reserves involves only net premiums, there is included in income, on account of policies with deferred and uncollected premiums, only the net portions of such premiums. Since loading on premiums does not enter into the computation of reserves, loading on deferred and uncollected premiums is not included in income.

The legislative history of the 1959 Act, as well as the language of Section 818(a), leaves no doubt that Congress was aware of the importance of Annual Statement practices in life insurance company accounting, particularly as they relate to problems generated by regulatory requirements.[31] Accordingly, it seems reasonable to infer that Congress intended that the Annual Statement treatment of deferred and uncollected premiums should be followed for purposes of determining assets and gain from operations under the 1959 Act. This is underscored by the lack of any discernible contrary legislative intent that would authorize a departure from the practice and understanding of the industry with respect to this important item. For this reason, it is the position of the *amicus* that it is proper to include the net amount of such premiums in assets and income, notwithstanding generally applicable tax rules (which would exclude them) or the government's ill-conceived notion of "symmetry".[32]

B. Assets

That Congress intended this treatment reasonably follows, in *amicus'* view, not only from the express reference

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[31] Nor is the Annual Statement new to this Court. In *Maryland Casualty Co.* v. *U.S., supra,* it agreed that the "distinction between the 'reserves' and general assets of a company is obvious and familiar and runs through the statements of claimant and every other insurance company." (251 U.S. 342, 351 (1920)).

[32] Following the NAIC treatment is, of course, consistent with the general rule stated in section 446(a) that "taxable income shall be computed under the method of accounting on the basis of which the taxpayer regularly computes his income in keeping his books".

to the NAIC Statement in section 818(a), but also from the statutory definition of assets added to the Code by the 1959 Act. A careful reading of section 805(b)(4) shows that it was drafted with reference to the items reflected on the balance sheet in the Annual Statement prescribed by the NAIC (and required by Treas. Reg. § 1.6012-2(c) to be filed with the federal income tax return) except to the extent that the section specifically provides otherwise.[33]

Section 805(b)(4) begins by providing that "the term 'assets' means all assets of the company (including nonadmitted assets)." "Nonadmitted assets" is a term that appears outside the statute only in the Annual Statement to describe certain assets of a life insurance company. "Nonadmitted assets" are eliminated in Exhibit 13 of the Annual Statement from the total assets, and only admitted assets are carried to the asset page of the balance sheet. The parenthetical inclusion in the statute of "non-admitted assets" is a specific adjustment which Congress obviously intended to make to the assets shown on the balance sheet. Exclusion of property (other than money) used in an insurance trade or business is another specific adjustment. A third is the requirement that real property and stock shall be included at fair market value.

In the face of the reference to the balance sheet shown in the Annual Statement and the specific adjustments to certain of the items shown there, it is not reasonable to conclude that Congress without specific language intended gross deferred and uncollected premiums, that do *not*

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[33] Section 805(b)(4) provides:

"ASSETS—For purposes of this part, the term 'assets' means all assets of the company (including nonadmitted assets), other than real and personal property (excluding money) used by it in carrying on an insurance trade or business. For purposes of this paragraph, the amount attributable to—

(A) real property and stock shall be the fair market value thereof, and

(B) any other asset shall be the adjusted basis of such asset for purposes of determining gain on sale or other disposition."

appear as assets on the balance sheet and are *not* assets in the ordinary sense of the word, to be substituted for net deferred and uncollected premiums that *are* shown as assets in the balance sheet.

The government's position that gross deferred and uncollected premiums should be included in assets is, moreover, contrary to its own regulations. They contemplate the inclusion in assets of the net deferred and uncollected premiums shown on the balance sheet. In Example (1) set forth in Treas. Reg. § 1.805-5(a)(4)(ii) it is said:

> "Included in the *statement of assets* of P, a life insurance company, are the following items: . . . premiums deferred and uncollected. . . . Accordingly, since . . . premiums deferred and uncollected . . . are not considered as being used by P in carrying on an insurance trade or business, they are included within the term 'assets' and, therefore, shall be taken into account by P in determining its current earnings rate." [Emphasis added.]

This could refer to no "statement of assets" of a life insurance company other than the one prescribed by the NAIC. In that statement the "deferred and uncollected premiums" that are included have always been net deferred and uncollected premiums and nothing else. If the Treasury Department, in giving this example, had had any idea that section 805(b)(4) required a life insurance company to take into account any amount of deferred and uncollected premiums other than the amount of deferred and uncollected premiums "included in the statement of assets", it presumably would have said so.

C. Income

The general rule for the inclusion of items of income by accrual basis taxpayers is set forth in Treas. Reg. § 1.451-1 as follows:

> "Under an accrual method of accounting, income is includible in gross income when all the events have occurred which fix the right to receive such income and the amount thereof can be determined with reasonable accuracy."

If this rule is applicable, the result reached by the court below in this case would, as in the case of assets, clearly be correct. However, another general rule of tax accounting is set forth in Treas. Reg. § 1.446-1(a)(2), which provides as follows:

> "A method of accounting which reflects the consistent application of generally accepted accounting principles in a particular trade or business in accordance with accepted conditions or practices in that trade or business will ordinarily be regarded as clearly reflecting income, provided all items of gross income and expenses are treated consistently from year to year."

This Court in *Commissioner* v. *Idaho Power Company*, 418 U.S. 1, 15 (1974), said:

> "where a taxpayer's generally accepted method of accounting is made compulsory by the regulatory agency *and* that method clearly reflects income, it is almost presumptively controlling of federal income tax consequences."

The *amicus* submits that the argument in favor of following the Annual Statement treatment of deferred and uncollected premiums in computing gain from operations is even stronger than was the government's argument in the *Idaho Power* case. Here, the method of accounting has not only been prescribed "by the regulatory agency", but it has also been prescribed by section 818 of the Code.

Moreover, just as there is evidence in the statutory definition of assets that Congress intended the NAIC Annual Statement to be the starting point for computing "assets", so there is evidence that the Statement is the starting point for computing "gain from operations". "Gain from operations" is a term of art which appears

outside the statute only in NAIC accounting and is clearly derived from page 4 of the Annual Statement.[34]

The government has argued on numerous occasions that gross deferred and uncollected premiums must be included in income because section 809(c)(1) requires the inclusion of gross premiums in income and no deduction is authorized under any paragraph of section 809(d) for the increase in loading. Section 809(c)(1), however, does not specifically mention deferred and uncollected premiums, and only reference to the NAIC accounting treatment justifies the accrual of anything at all on account of deferred and uncollected premiums.[35] If the last sentence of section 818(a),

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[34] On this the Secretary of the Treasury wrote Congress:

> "We suggest that the starting point for measuring the net earnings should be the figure for 'Net gain from operations after dividends to policyholders' which appears in each company's annual statement to the State insurance departments and which summarizes the operating results for the year. This figure is based on carefully developed life insurance accounting practices which have general acceptance in the industry." Hearings before the Subcommittee on Internal Revenue Taxation of the Committee on Ways and Means, 85th Cong., 2nd Sess., 4, November 17-20, 1958; Hearings before the Committee on Finance, 86th Cong., 1st Sess., 512, March 3-5, 17-19, 1959.

Comments of witnesses quoted by the government (P. Br. 50, n. 35) on the significance of the Summary of Operations were made in the course of vehement opposition to a total income approach. The final form of the statute, of course, reflects a number of substantial and specific modifications of gain from operations shown on the NAIC statement, designed to meet some of the objections of the industry witnesses. Inclusion of loading in assets and premium income was not among these modifications.

[35] As the government recognizes (P. Br. 12-13 and n. 13), elimination of loading from gain from operations is not a deduction, but merely a means of limiting premium income to the increase in net deferred and uncollected premiums. The lower courts that concluded that Congress could not have intended "to relegate the substantive matter of offsetting or excluding loading" to the NAIC have missed the point. Congress did not delegate discretion to the NAIC. It has incorporated the NAIC method of computation in the tax law where the statute does not specifically provide otherwise.

which contains the reference to the NAIC Annual Statement, was not intended to resolve issues such as those presented here, it is hard to see why Congress included it in the statute.

D. The Government's Principal Position Produces Anomalous and Inconsistent Results

Because premium taxes, commissions and other expenses must be paid when premiums are received, the government's contention that gross deferred and uncollected premiums must be included in assets and gain from operations (without reduction for the increase in loading) would produce the anomalous result that a company that has not collected all of its premiums will have greater assets and income than one that has. This anomaly was recognized by the Fifth, Seventh and Eighth Circuits in the *Great Commonwealth, Federal,* and *North American* cases and by the district court in *Bankers Life.*[36] They attempted to rectify it by permitting reductions in income or assets for estimated expenses that would be incurred in the process of collecting deferred and uncollected premiums. The *amicus* would agree that if there were any basis for including the gross amount of deferred and uncollected premiums in assets and income, there would be equal justification for reducing both assets and income by the amount of related expenses. We see no necessity, however, for adopting this approach when assets and income are already clearly reflected by the NAIC method.

To support its claim that the gross amount of deferred and uncollected premiums should be included in assets and income, the government reiterates the proposition that,

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[36] See n. 5 and 6, *supra.* Reductions in assets were not claimed by the taxpayers in the *Great Commonwealth, Federal,* and *North American* cases.

because a life insurance company computes its reserves by assuming collection of net valuation premiums annually in advance, it must include in assets and accrue as premium income the gross amount of deferred and uncollected premiums.[37]

In the first place, the government has never adequately explained how an assumption that is made with respect to net premiums in the appraisal of a contingent liability can cause inclusion of a larger amount in assets or income. A company's liability to its policyholders under policies in force on the statement date is transformed from future unaccrued contingent liabilities into a fixed liability by state law. This liability is taken into account in calculating reserves pursuant to section 801(b). Deductions for increases in the state statutory reserve liability are allowed because section 809(d)(2) says they shall be. These provisions do not create assets or income. Increases in assets or income on account of deferred and uncollected premiums occur, if at all, because section 818(a) requires that tax computations be made in a manner consistent with the NAIC Annual Statement.

The government asserts more than twenty times in its brief that the assumption of full payment of annual premiums on policy anniversary dates must be applied consistently to assets and income, as well as to reserves. In view of these repeated references to the need for consistency, it would seem reasonable to expect that the government itself would see fit to be consistent. But the govern-

[37] Thus, the government tells this Court that (P. Br. 29) deferred and uncollected "premiums must be consistently deemed to have been paid for all purposes"; that (P. Br. 38) "the selfsame assumption" must be made in calculating "gain from operations" and "assets" as is used in calculating reserves; that (P. Br. 49) "these premiums be taken into account consistently for assets as well as liabilities"; that (P. Br. 53) "[t]he integrity of a computation of net income requires that uniform assumptions be made with respect to both income and deduction items"; and that (P. Br. 18) "[s]ymmetry would require . . . that both sides of the equation by which taxable income is determined be treated alike." See also P. Br. 13, 14, 19, 20, 25, 26-27, 28, 36, 37, 43, 44-45, 48, 51, 52; Pet. 18-19.

ment apparently adheres to this principle only up to a point. It fails to recognize that when a life insurance company receives premium income, it necessarily will pay deductible expenses associated with the collection of that income, including agents' commissions, premium taxes and clerical expenses. If it were to be assumed that gross premiums have been received in cash—as the government insists it must be—it would be only fair and reasonable to assume also that, by year-end,[38] concomitant expenses of collection would have been paid in cash. In short, even under the government's theory, both assets and income would be reduced by expenses associated with the collection of deferred and uncollected premiums.

The government's primary position rests entirely on the argument that (P. Br. 29) "[r]espondent cannot take those premiums into account in its 'reserves' when it suits its purposes of reducing its tax base but turn its back on them when their inclusion in 'assets' and 'gross amount of premiums' would increase its tax liability." It is enough to point out in response that it will not do for the government to take those premiums into account when it suits its purpose of increasing respondent's tax base but turn its back on related expenses when their payment would decrease respondent's tax liability.[39]

From the standpoint of consistency, if the gross amount of deferred and uncollected premiums were to be included

[38] The current earnings rate is computed with reference to the mean of the taxpayer's assets at the beginning and end of the taxable year. Section 805(b)(2)(B). Hence, what is important for asset purposes is not what is received during the year but what remains at the end of the year.

[39] In other contexts, the courts have held that the substance of a transaction must be determined by viewing each step of the transaction in relation to the whole. See, *e.g.*, *Commissioner* v. *Court Holding Co.*, 324 U.S. 331, 334 (1945). Just as a taxpayer may not divide a single transaction into separate parts in order to minimize tax, so the government should not be permitted to ignore integral parts of a single transaction in order to maximize tax. *Helvering* v. *New Haven & Shore Line Ry Co., Inc.*, 121 F.2d 985, 988 (2d Cir. 1941), *cert. denied*, 315 U.S. 803 (1942).

in assets and income, it would be reasonable to allow a reduction of both for related expenses. However, such a solution does not have the express statutory authority that the NAIC method does. It is, moreover, unnecessarily complex and offers no demonstrable advantage over the NAIC method that we urge should be followed here. Based on the provisions of the 1959 Act, we submit that Congress decided to leave undisturbed the NAIC treatment of deferred and uncollected premiums. Congress did so, we believe, not because of some recently conceived government theory of symmetry, but because it clearly reflects income and is consistent with what had always been—and remains today—the practice and understanding of the life insurance industry.

Conclusion

For the foregoing reasons, the case should be remanded to the Tax Court with directions to enter judgment for the taxpayer on the basis of the NAIC Annual Statement computations with respect to deferred and uncollected premiums. Alternatively the judgment of the Court of Appeals should be affirmed.

Respectfully submitted,

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No. 75-1771

IN THE

Supreme Court of the United States

OCTOBER TERM, 1976

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

v.

STANDARD LIFE & ACCIDENT INSURANCE COMPANY,
Respondent.

On Writ of Certiorari to the United States
Court of Appeals for the Tenth Circuit

MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE, WITH BRIEF ATTACHED, AND SUGGESTION OF LACK OF JURISDICTION

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Wightman, *Life Insurance Statements and Accounts* (1952 ed.) 15

IN THE

Supreme Court of the United States

OCTOBER TERM, 1976

No. 75-1771

COMMISSIONER OF INTERNAL REVENUE,
Petitioner,

v.

STANDARD LIFE & ACCIDENT INSURANCE COMPANY,
Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

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MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE

Amicus curiae, Tax Analysts and Advocates, respectfully requests this Court, pursuant to Rule 42, to allow it to file the attached Brief Amicus Curiae in this case. This brief argues, contrary to the position advanced by Standard Life, that deferred and uncollected premiums are not part of life insurance reserves and cannot be reported as such for federal tax purposes. In addition, contrary to the position advanced by the Government, this brief argues that the

Internal Revenue Code does not permit an election to include amounts in "life insurance reserves" when such amounts are not in fact reserves.

The brief also suggests that the Government's attempt to use its brief in this case to achieve a compromise settlement with the insurance industry, through provision of an election not authorized by statute, prevents this case from being presented in a fully adversary context. Given that fact, it appears that the Court may lack jurisdiction to consider the Government's proposed settlement, under which the Commissioner would accept the insurance industry's fictional assumption of full premium payment and consequent overstatement of reserves as long as the same assumption is consistently applied in computing other elements of the tax formula.

Because this brief does not support either party before the Court, it appears that the only portion of Rule 42(2) and (3) which is applicable is the statement that "A brief of an amicus curiae in cases before the court on the merits may be filed only after order of the court. . . ." The following information is nevertheless supplied for the convenience of the Court, as if this brief supported one or the other party:

a. *Interest of the Amicus Curiae.* The amicus curiae is a public interest tax law firm, which seeks to represent the interests of ordinary taxpayers before the Executive Branch and in the courts. Among other things, it opposes the shifting of tax burdens which takes place when erroneous or illegal interpretations of the tax law relieve certain taxpayers, such as the members of the life insurance industry, of tax burdens which must then be paid by others.

The amicus curiae believes that the government's position in the present case fails to defend the interests of ordinary taxpayers adequately. More specifically, it appears that the Government's position will result in revenue losses of $300 million or more, due to an erroneous interpretation of the provisions of the Life Insurance Company Income Tax Act of 1959. These losses will have to be recouped through higher tax payments by others, either immediately or, in the longer run, through higher service charges on an enlarged national debt.

The amicus also believes that it is important to present cases for judicial consideration in a fully adversary context, in accordance with the dictates of Article III of the Constitution. Since the nonadversary nature of the Government's proposed settlement of the deferred and uncollected premium issue may be obscured by the factual and legal complications surrounding this proceeding, the amicus is filing this brief to suggest the likelihood that the Court may lack jurisdiction, to the extent that the Government seeks to use its brief to propose a settlement not authorized by statute.

b. *Reasons Why the Parties' Presentation of the Facts and Law is Inadequate.* At the time the Treasury Regulations were promulgated under the Life Insurance Company Income Tax Act of 1959, and during the initial litigation of the deferred and uncollected premium issue (including the lower court proceedings in the instant case), the Government erroneously assumed (1) that net deferred and uncollected premiums were actually a portion of an insurer's life insurance reserves, and (2) that the annual statement form prescribed in all states provided for an accrual of the deferred and uncollected premiums. It was not until the trial judge's decision in *Monumental Life*

Insurance Co. v. United States, 76-2 U.S.T.C. ¶9787 (Ct. Cl.), filed November 19, 1976, that the courts recognized the Government's error. In that case, the trial judge pointed out that net deferred and uncollected premiums are not actually insurance reserves, and that the accounting on the annual state insurance statement is designed to totally eliminate their impact upon the company's financial position.

However, because four circuits have upheld the Government's regulations that erroneously included net deferred and uncollected premiums in reserves, the Government apparently refuses to recognize its error. Instead, in its brief in the present case, it has merely corrected its presentation of the facts to indicate, in conformity with the facts demonstrated in *Monumental Life*, that the net deferred and uncollected premiums are *not* actually reserves and that the annual statement does not, in any way, accrue them.

In addition, however, the Government has advanced the novel suggestion that a life insurance company has the choice of including or excluding net deferred and uncollected premiums from reserves. If the Court adopts this position, the Government's prior errors will not be exposed and corrected, but will be effectively obscured and perpetuated.

Life insurance companies will be financially benefitted by the inclusion of net deferred and uncollected premiums in reserves for tax purposes. Hence, they cannot be counted on to present the contrary point of view, and the facts supporting that view. Meanwhile, the Government appears wedded to its erroneous regulations, which permit the inclusion. Accordingly, the amicus curiae is filing this brief to assure presentation of the facts and law in an adversary context, and to protect the interest of ordinary taxpayers.

c. *Consents.* Neither party consents to the filing of this brief. In this connection, counsel for Standard Life states that he declines to consent unless the Court gives leave to file a response within 30 days to the questions presented herein.

Respectfully submitted,

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March 1977

IN THE

Supreme Court of the United States

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BRIEF FOR TAX ANALYSTS AND ADVOCATES AS AMICUS CURIAE

QUESTIONS DISCUSSED BY AMICUS CURIAE

1. Whether net deferred and uncollected premiums, which are universally admitted to be an overstatement of legally required insurance reserves, are nevertheless includable in "life insurance reserves" for tax purposes, as defined by Section 801(b) of the Internal Revenue Code of 1954 (as amended)?

2. Whether the Commissioner, even though deferred and uncollected premiums are not "life insurance reserves" within the scope of Section 801(b) of the Internal Revenue Code, may nevertheless permit a life insurance company to include them in reserves for tax purposes?

3. Whether the Government's proposed compromise settlement of the deferred and uncollected premium issue is presented to this Court in an adversary context, so as to constitute a "case or controversy" within the scope of Article III of the Constitution?

INTEREST OF THE AMICUS CURIAE

The amicus curiae is a public interest tax law firm, founded in 1970. It seeks to represent the interests of ordinary taxpayers before the Executive Branch and in the courts. Among other things, it opposes the shifting of tax burdens which takes place when erroneous or illegal interpretations of the tax law relieve certain taxpayers, such as the members of the life insurance industry, of tax burdens which must then be paid by others.

The amicus curiae believes that the Government's position in the present case fails to defend the interests of ordinary taxpayers adequately. More specifically, it appears that the Government's position will result in revenue losses of $300 million or more, due to an erroneous interpretation of the provisions of the Life Insurance Company Income Tax Act of 1959. These losses will have to be recouped through higher tax payments by others, either immediately or, in the longer run, through higher service charges on an enlarged national debt.

At the time the Treasury Regulations were promulgated under the Life Insurance Company Income Tax Act of 1959, and during the initial litigation of the deferred and uncollected premium issue (including the lower court proceedings in the instant case), the Government erroneously assumed (1) that net deferred and uncollected premiums were actually a portion of an insurer's life insurance reserves, and (2) that the annual statement form prescribed in all states provided for an accrual of the deferred and uncollected premiums. It was not until the trial judge's decision in *Monumental Life Insurance Co. v. United States*, 76-2 U.S.T.C. ¶9787 (Ct. Cl.), filed November 19, 1976, that the courts recognized the Government's error. In that case, the trial judge pointed out that net deferred and uncollected premiums are not actually insurance reserves, and that the accounting on the annual state insurance statement is designed to totally eliminate their impact upon the company's financial position.

However, because four circuits have upheld the Government's regulations that erroneously included net deferred and uncollected premiums in reserves, the Government apparently refuses to recognize its error. Instead, in its brief in the present case, it has merely corrected its presentation of the facts to indicate, in conformity with the facts demonstrated in *Monumental Life*, that the net deferred and uncollected premiums are *not* actually reserves and that the annual statement does not, in any way, accrue them.

In addition, however, the Government has advanced the novel suggestion that a life insurance company has the choice of including or excluding net deferred and uncollected premiums from reserves. If the Court adopts this position, the Government's prior errors will not be exposed and corrected, but will be effectively obscured and perpetuated.

Life insurance companies will be financially benefited by the inclusion of net deferred and uncollected premiums in reserves for tax purposes. Hence, they cannot be counted on to present the contrary point of view, and the facts supporting that view. Meanwhile, the Government appears wedded to its erroneous regulations, which permit the inclusion. Accordingly, the amicus curiae is filing this brief to assure presentation of the facts and law in an adversary context, and to protect the interest of ordinary taxpayers.

FACTUAL BACKGROUND

1. The Government's brief (Br. 32) correctly describes life insurance reserves as a calculation of projected liabilities established as a measuring device to determine the assets that the company must maintain in order to meet its future commitments under the policies it has issued. This is in accordance with the *prospective* definition of life insurance reserves contained in the Standard Valuation Law in effect in all states (*see, e.g.*, 26 Oklahoma Statutes Annotated, Section 1510(E)(2) (1958)), which states, in part, that

> * * * reserves for the life insurance and endowment benefit policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided by such policies, over the then present value of any future modified net premiums therefor.

Under this prospective view, the reserve represents the amount that the company must have in hand in its assets at the present time, to cover the difference between what

it will pay out in future benefits over what it will receive in future net premiums. Each payment of a premium reduces the amount of future net premiums that the company anticipates will be received to help finance the payment of future claims, and the company must correspondingly increase its reserve.

When a premium has not yet been paid, whether it is a future annual premium or a deferred or uncollected premium, it does *not* increase the reserve, because the currently unpaid premium is a premium that must be paid in the future to keep the contract in force and will, when paid, defray the cost to the company of future benefits. The company does not presently have to constrain its own assets to insure that it will have sufficient resources to pay future claims. Consequently, under the Standard Valuation Law, the net deferred or uncollected premiums cannot be included in the reserve, because they would overstate the company's actual liability and encumber an excessive portion of the company's assets.

Similarly, although not so described by state statute, reserves are often viewed *retrospectively* as being equivalent to the amount of net valuation premiums paid by the group of insureds, plus interest at the assumed rate, less assumed death claims for the group. Since the net valuation premiums are established at the inception of the policy in exactly the amount needed to pay the future death claims prescribed by the assumed mortality tables, the reserves will be the same if calculated retrospectively or prospectively. The amount assumed to remain in the company's assets from the prior premium payments under the retrospective calculation will always be equal to the amount the company anticipates it must have in assets in order to cover the difference between

the future benefits it will pay out and the amount it will receive in future net premiums. As in the case of the prospective calculation under the prospective view, the deferred or uncollected gross contract premiums have not yet been received and, consequently, the net portion thereof would not be included in the reserves, because it has not yet gone into the company's assets.

2. From a conceptual standpoint, too, without reliance on the prospective definition contained in the governing state statutes or on the equivalent retrospective calculation, net deferred and uncollected premiums are not considered to be reserves. As both the Government's brief (Br. 32) and the trial judge's opinion in *Monumental Life Insurance Co. v. United States*, 76-2 U.S.T.C. ¶9787 (Ct. Cl.), filed November 19, 1976, indicate, a reserve represents an estimate of the company's liabilities to its policyholders, and the company simply does not have an existing risk exposure or other liability in connection with a deferred or uncollected premium. If a policyholder dies during the 31-day grace period when the policy is still in force, the state statutes permit the company to deduct the uncollected premium from the policy proceeds. *See, e.g.*, 36 Oklahoma Statutes Annotated, Section 4003 (1958). Where the premium is deferred, rather than due and uncollected, and the insured dies, the insurer, typically, will also deduct the deferred premium from the policy proceeds. From a conceptual standpoint, therefore, the basic policy reserves in either case should not include any amount to represent a liability (which does not in fact exist) with respect to the premiums that remain unpaid at the death of the insured.

Similarly, in the event the policyholder fails to pay the deferred or uncollected premium when due, or within the grace period permitted by law, the insurer would nevertheless

not have any liability with regard to it. Upon the lapse of the policy, state law requires the company to credit the cash surrender value to the account of the policyholder. The cash surrender value is calculated on the basis of premiums actually paid to the date of the lapse. *See, e.g.*, 36 Oklahoma Statutes Annotated, Section 4029H (1958).

It is only because the insurer has *not* actually incurred a liability with respect to deferred and uncollected premiums that the state insurance commissioners not only permit, but uniformly require, that the apparent liability be cancelled through an offsetting entry in assets, as more fully described below. At the heart of the present controversy is the method by which life insurance companies compute these offsetting entries and their life insurance reserves and report them on the annual statement of the National Association of Insurance Commissioners (NAIC).

In calculating reserves, insurance companies have traditionally indulged in a fictitious assumption. Through a series of related and offsetting entries, companies first introduce and then neutralize an assumption of full annual premium payment. Under this assumption, the premiums on all of the ordinary life policies currently outstanding are considered to have been paid up one year in advance on each policy's issuance date and on each anniversary date thereafter, even though a portion of these premiums may be deferred or uncollected. The fiction that the deferred and uncollected premiums have been prepaid is reflected on the balance sheet by including the net valuation portion of such premiums on the liability side in the figure entitled "Aggregate reserve for life policies and contracts." A companion entry is then made adding an equivalent amount to assets. From a solvency standpoint, the net effect of this exercise is absolutely nil,

since the amount of real assets charged with responsibility for meeting the insurer's actual liability for policyholder benefits remains exactly the same. *Monumental Life Insurance Co., supra,* p. 85,553.

There is a similar system of related and offsetting entries made in the "Summary of Operations" schedule of the annual statement by which the life insurance company first introduces and then neutralizes the fictitious assumption that the premiums on all of the ordinary life policies have been paid up one year in advance on the policy's anniversary date. The gross deferred and uncollected premiums are first included in income, and are then offset by two separate deductions. The net valuation portion of the gross premiums included in income is partially offset by the inclusion of that amount in the overall deduction taken by the company for its increase in reserves. At that point, income is still overstated by the loading portion of the deferred and uncollected premiums. The remaining overstatement is offset by a further deduction called "Increase in loading on and cost of collection in excess of loading on deferred and uncollected premiums." *Monumental Life Insurance Co., supra,* p. 85,553. The net effect of this series of overstatements and offsetting adjustments in the "Summary of Operations" schedule (as in the balance sheet) is to totally eliminate any impact that the deferred or uncollected premium might have upon the life insurance company's financial statement.

The nature of the inclusion of the net deferred and uncollected premiums in the "Aggregate reserve" as constituting an overstatement of the company's actual life insurance reserves is not a subject of any controversy within the insurance industry. The text writers uniformly recognize the "Aggregate reserve" as an overstatement of the

actual reserve, and the inclusion in assets of the net deferred and uncollected premiums as a corrective offset to the overstatement of reserves. Wightman, *Life Insurance Statements and Accounts* 43-44, 155, 545 (1952 ed); MacLean, *Life Insurance* 318-319 (9th ed. 1962); Ernst & Ernst, *GAAP* [Generally Accepted Accounting Principles]-*Stock Life Companies* 449-450 (1974); Beardsley, *Life Company Annual Statement Handbook* III-15 (1962).

4. As the Government's brief (Br. 34-35) discloses, the practice of overstating the reserves and then offsetting them in the company's financial statements is an historic practice adopted by the First Session of the National Insurance Convention in 1871. *See, Official Report of the Proceedings of the National Insurance Convention of the United States* (1871), pp. 68-70. Although the life insurance companies have always had the capability of determining the exact reserve for each policy by taking into account the net portion of premiums actually paid to the December 31 reporting date, the actuarial work involved in making such a computation for each policy was considered "burdensome," and the Convention's Report prescribed the substitute method of overstatement and offset as bringing "substantially the same result." At that time, most of the ordinary life policies were paid by full annual premium on or before the anniversary date. For simplicity, it was therefore assumed that *all* policies were paid by full annual premium in this fashion. This, of course, produced an overstatement of reserves with respect to the policies on which there were deferred or uncollected premiums outstanding. That overstatement was then corrected by the creation of an artificial offsetting "asset." The *Official Report* termed this amount a "quasi-asset," and made it clear that it was included in assets only as an offset to the overstatement in the reserves. It was to

be regarded as a reduction in the "apparent liability [reserve] of the company as charged on the opposite side of the account" and "should not be for any other purpose regarded as an asset of any value."

Why the report did not recommend actually reducing the overstatement of the reserves in liabilities instead of entering corrective offsets in assets is unexplained, but it was made clear from the outset that the figure entered in assets was part of the reserve, rather than asset, valuation. Consequently, as the report and the above-cited text authorities indicate, the company's reserves are reflected in two items entered in the annual statement, not merely the figure shown in liabilities as the "Aggregate reserve." The amount entered in assets as the net deferred and uncollected premiums *is actually a reduction item* in the calculation of the reserves which must be taken into account by being subtracted from the "Aggregate reserve" when determining the company's actual life insurance reserves.

ARGUMENT

I. DEFERRED AND UNCOLLECTED PREMIUMS ARE NOT PART OF AN INSURER'S LIFE INSURANCE RESERVES AND CANNOT BE REPORTED AS LIFE INSURANCE RESERVES FOR TAX PURPOSES.

Section 801(b)(1)(B) of the Internal Revenue Code of 1954 (as amended) defines the term "life insurance reserves" in part, as meaning amounts "which are set aside to mature or liquidate * * * future unaccrued claims." Section 801(b)(2) further requires that "life insurance reserves must be required by law." Given these requirements,

it should be a simple matter to conclude that deferred and uncollected premiums do not qualify as life insurance reserves. They are not amounts "set aside," a phrase which would appear to require that reserves be derived from premiums already paid by the policyholders, as this Court has determined in the past.* This view of the Court apparently coincides with the retrospective calculation of reserves, which treats reserves as having derived from the prior payment of premiums.

Furthermore, deferred or uncollected premiums do not relate to "future unaccrued claims," as required by the Internal Revenue Code, since the company does not incur any liability with regard to them, as discussed earlier. *See, Monumental Life Insurance Co. v. United States,* 76-2 U.S.T.C. ¶9787 (Ct. Cl.), filed November 19, 1976. Finally, they are not life insurance reserves "required by law," because they represent an admitted overstatement of those reserves within the definition of the Standard Valuation Law and as reserves are universally understood in the insurance industry.

Nor is there any justification for including the net deferred and uncollected premiums in reserves because of the treatment given them on the annual statement. Section 818(a)(1) of the Code requires that all computations be made under an accrual method of accounting, and the NAIC annual statement method of entering overstatements

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* *See, e.g., New York Life Ins. Co. v. Edwards,* 271 U.S. 109, 115, 119 (1926); *New York Life Ins. Co. v. Bowers,* 283 U.S. 242, 244 (1931); *Helvering v. Inter-Mountain Life Insurance Co.,* 294 U.S. 686, 690 (1935); *Williams v. Union Central Life Insurance Co.,* 291 U.S. 170, 177 (1934); *United States v. Atlas Life Ins. Co.,* 381 U.S. 233, 247 (1965).

and corrective offsets is not such an accrual method. Moreover, Section 801 defines reserves without reference to the amounts shown in the annual statement and, further, without reference to any overstatement of the reserves. Similarly, Section 805(b)(4) defines "assets" without reference to the annual statement as "assets of the company" – clearly suggesting that the reference is to *real* assets, not "quasi-assets" that are merely corrective offsets to reserve overstatements. *See, Official Report of the Proceedings of the National Insurance Convention of the United States* (1871), *supra,* pp. 68-70. Even though there is a conflict between the Tenth Circuit in this case and decisions in four other circuits, one item on which they *all* agree is that the NAIC annual statement should not be followed to the exclusion of the definitional sections of the Internal Revenue Code relating to "assets" and "reserves."

Perhaps a conclusive indication that Congress rejected the NAIC method of overstating, and then correcting, the reserves is the omission from Section 809(d) of any deductions relating to the increase in loading on deferred and uncollected premiums. This deduction in the NAIC annual statement is a necessary and integral part of the entire system of introduction and neutralization of the overstatement in reserves. Congress has provided specific deductions pertaining to life insurance in Section 809(d) (*see,* in particular, subsections (1) - (3)), and it would hardly have omitted such a prominent deduction if it had intended to carry over to the tax return the mechanics of the NAIC annual statement treatment.

Furthermore, in view of the purpose of the Phase I tax computation, it is unlikely that Congress would have desired to include the net deferred and uncollected premiums in reserves. In the Phase I computation of taxable investment income, the larger the figure used for reserves,

the larger will be the share of investment income attributed to policyholders and therefore not taxed to the company. But because of the additional premiums charged a policyholder to put his premiums on a fractional mode of payment, and because of a similar charge permitted under state statute with regard to recovering an uncollected premium, the insurer is not obligated to appropriate any part of the income generated by its own investments to provide an investment return on deferred and uncollected premiums. "The standard policy provisions require that return to come from the pocket of the policyholder whenever he pays such a premium and thereby keeps his coverage in force." *Monumental Life, supra,* p. 85,552. In that respect, the trial judge in *Monumental Life* concluded as follows:

> Since, as earlier explained, investment return on deferred and uncollected premiums is obtained directly from the policyholder's pocket by subjecting him to an additional interest charge, the insurer's reservoir of investment income need not be drained in order to provide a commensurate return on assets exposed to coverages represented by such premiums. * * * Thus, no element of those premiums has any proper place in either the numerator or the denominator of the Phase I fraction whose assigned function is ascertainment of that portion of total investment income needed to provide a return on those assets that are reserved for the payment of the future policyholder claims. (*Id.*, p. 85,557).

If the net deferred and uncollected premiums must be included in reserves, there would clearly be less of a distortion in investment income if a somewhat greater (rather

than equal) amount were also included in assets. This procedure would tend to minimize the unwarranted attribution of the insurer's investment yield to policyholder liability requirements. However, in the absence of any compelling reason why net deferred and uncollected premiums should be included in reserves in the first instance, totally eliminating the distortion by excluding deferred and uncollected premiums from the tax computation is preferable to only lessening the distortion by including a greater amount in assets.

There is no justification to the Government's contention in its *Standard Life* brief (Br. 41) that including the deferred and uncollected premiums in full in assets produces an "accurate result," when it merely *lessens* the distortion in investment income. Nor is the Government justified in contending (Br. 56) that the "alternative approach" of excluding those premiums completely from the tax formula does no more than "guarantee the integrity of the tax computations." The fact is that completely excluding the deferred and uncollected premiums is the *only* method of producing an accurate result in the Phase I computation.

Had the courts in the earlier cases not mistakenly believed that net deferred and uncollected premiums are a part of the life insurance reserves, there is a strong likelihood that they would have required the exclusion of deferred and uncollected premiums from the Phase I tax computation. We can be reasonably certain that this would have been the result in the Tax Court and in the Fifth Circuit.

In his original decision in *Western National Life Ins. Co. v. Commissioner,* 50 T.C. 285 (1968), Judge Drennen excluded the deferred and uncollected premiums in their entirety from assets and suggested their elimination from

reserves pursuant to Treasury Regulations Section 1.801-4(f), despite his erroneous belief, based upon the submissions of the parties, that the net deferred and uncollected premiums are part of the life insurance reserves. On rehearing, after the parties (and the life insurance trade associations appearing as *amici curiae*) insisted that deferred and uncollected premiums must be included in life insurance reserves, he agreed to that inclusion and to the inclusion of an equal amount in assets. 51 T.C. 824. The Fifth Circuit reversed the Tax Court and upheld the Commissioner's position that, although only the net deferred and uncollected premiums are includable in reserves, the full gross amount of those premiums is includable in assets. 432 F.2d 298 (1970).

The Court based its opinion upon the mistaken view that "the life insurance industry either because of requirements of state regulating agencies or otherwise, universally considers these deferred and uncollected premiums as accrued at the end of the year" and, further, that there existed a "state commissioners' requirement that the policyholder's share [the net valuation portion of the deferred and uncollected premium] be accrued and added to reserves even though not legally collectable." 432 F.2d, at 300.

That the Fifth Circuit would have eliminated deferred and uncollected premiums completely from the tax computation – had it been aware that they were *not* considered as accrued in the annual statement and were *not* part of the reserves under state law – is evidenced by the next case decided by that Circuit involving deferred and uncollected premiums. In *Great Commonwealth Life Ins. Co. v. United States,* 491 F.2d 109 (5th Cir. 1974), the Court was faced with the question of whether, once the deferred

and uncollected premiums are treated as fully accrued in the balance sheet for Phase I purposes as determined in *Western National Life Ins. Co., supra,* they also must be accrued in income for Phase II purposes. The Court held that they must be fully accrued for Phase II purposes, but that the company should be entitled to a deduction for the agent's commissions that will be incurred upon payment of the deferred and uncollected premiums. In so holding, however, the Court stated (p. 116) as follows:

> The result we reach is admittedly an imperfect one. None of the amounts under discussion are properly accruable under normal accounting practices. It would be far more accurate, we think, for the company to disregard deferred and uncollected premiums for all tax purposes, with the Commissioner's approval, of course, Section 446 (e); Treas. Reg. Sec. 1.446-1(e). This would create some variance of accounting between the N.A.I.C. reports and the tax returns, but it is well settled that there is no necessary agreement between the two, as noted by the Courts in *Franklin Life [Insurance Co. v. United States,* 399 F.2d 757 (C.A. 7), certiorari denied, 393 U.S. 1118], *Jefferson Standard Life [Insurance Co. v. United States,* 408 F.2d 842 (C.A. 4), certiorari denied, 396 U.S. 828] and *Western National Life* [*supra*]. We hold only that, once the company accrues the net valuation portion of the deferred and uncollected premiums, it must accrue the gross amount of those premiums for all tax purposes, and that it is also entitled to accrue commissions payable on those premiums.

Obviously, because the Court had already decided in *Western National* that there should be an accrual of deferred and uncollected premiums in the Phase I computation (based upon the erroneous assumptions that they were accrued in the annual statement and included in reserves pursuant to state requirements), the Court extended that holding to Phase II, even though it would have preferred to disregard the deferred and uncollected premiums for all tax purposes.

The above-quoted portion of the *Great Commonwealth* opinion indicating the Court's dissatisfaction with including deferred and uncollected premiums in the tax computations, subsequently was quoted with approval by the Tax Court in *Bankers Union Life Ins. Co. v. Commissioner,* 62 T.C. 661, 675 fn. 5 (1974). Nevertheless, the Tax Court reluctantly held that the deferred and uncollected premiums must be accrued because four circuits had previously so held, and the court "recognized its obligation to promote uniform application of the internal revenue laws" (62 T.C. at 675).

In *Standard Life,* the Supreme Court is not faced with its own prior erroneous decision, as was the Fifth Circuit in *Great Commonwealth, supra,* nor with the prospect of promoting an unequal application of the laws, as was the Tax Court in *Bankers Union.* Consequently, based upon a full understanding of the state statutory requirements and standard insurance accounting, the Court should reject "imperfect" results and should eliminate deferred and uncollected premiums completely from life insurance company tax computations.

II. NEITHER THE COMMISSIONER NOR THE TAXPAYERS HAS AN ELECTION TO INCLUDE AMOUNTS IN "LIFE INSURANCE RESERVES" AS DEFINED IN SECTION 801 (b) OF THE INTERNAL REVENUE CODE WHEN SUCH AMOUNTS ARE NOT IN FACT RESERVES.

In its first argument heading (Br. I), the Government proposes inclusion of gross deferred and uncollected premiums in "assets" and in the "gross amount of premiums" in cases in which "A life insurance company * * * includes the net valuation portion of deferred and uncollected premiums in 'reserves'." Thus, the Government in effect suggests handling deferred and uncollected premiums as though insurance companies had an election to include or exclude these premiums from reserves when computing their federal income taxes. But Congress has not provided an election of this sort.

Similarly, the Government concludes its brief (Br. 57) with a statement that "despite the logic and simplicity of total exclusion of deferred and uncollected premiums, the Commissioner is willing to accept the life insurance industry's fictional assumption of full premium payment and consequent overstatement of reserves as long as the same assumption is consistently applied in computing the other elements of the tax formula." But the Commissioner lacks statutory authorization to make a "deal" of this sort with the insurance industry.

We have not been able to locate any prior instance in the extensive litigation involving the deferred and uncollected issue in which the Government has offered the taxpayer an election to include or exclude deferred and uncollected premiums from reserves, provided that taxpayers report them in assets and income in accordance with the Government's stated positions. There is, however, no

justification for such a choice under the statute or the Government's own regulations. Only reserves "required by law" can be claimed as life insurance reserves for tax purposes. Section 801(b)(2) of the Code; Treasury Regulation Section 1.801-4(a)(3). Since net deferred and uncollected premiums are *not* reserves required by law, neither a life insurance company nor the Commissioner can choose to treat them as reserves in contravention of the statute.

Although the Treasury Regulations state alternative positions with regard to the treatment of deferred and uncollected premiums (see Treasury Regulation Section 1.801-4(f), the alternatives do not authorize an election, but merely express the Treasury's uncertainty with regard to the proper treatment. As Treasury Regulation Section 1.801-4(f) indicates, "In the event it is determined * * * that premiums deferred and uncollected and premiums due and unpaid are not properly accruable for the taxable years * * * and are not properly includable under assets * * * for the taxable year, appropriate reduction *shall* be made in the life insurance reserve." (Emphasis supplied). Since deferred and uncollected premiums are not properly accruable, are not properly includable under assets, and are not actually life insurance reserves, the "appropriate reduction shall be made" to exclude them from reserves if the taxpayer had erroneously included them in reserves in the first instance. The Commissioner, as well as the taxpayer, is required to abide by these regulations.

Although it is true that a taxpayer may "strengthen" its reserves by changing the mortality and interest assumptions upon which they are based (*see*, Section 810(d) of the Code), overstating reserves and entering a corresponding offset in assets does not effect a strengthening. The

reserves remain the same as if no overstatement had been made, since the overstatement constrains no additional assets of the company and does not constitute a reserve.

In its brief for this Court, the Government seeks to treat the deferred and uncollected premium question as if it were only a matter of "logic and simplicity," rather than a matter involving a statutory command. *See, e.g.*, Br. 34, 57. On this basis, the Government seeks to dismiss the *Monumental Life* opinion as offering simply one among many possible solutions to the deferred and uncollected premium problem.

But *Monumental Life* is based on more than what the Government terms (Br. 57) the "dual rationale of logic and simplicity." That opinion is also grounded firmly on the command of the Internal Revenue Code, which excludes deferred and uncollected premiums from reserves because they are not "life insurance reserves" (Section 801(b)(1)) or "required by law" (Section 801(b)(2)); from assets because they are not "asets of the company" (Section 801(b)(5)); and from the "gross amount of premiums" because the company has no right to them (Section 809(c)(1)). Furthermore, any inclusion of deferred and uncollected premiums would violate the accrual method required under Section 818(a).

The Government's position in the present case contrasts starkly with the rationale adopted in *Monumental Life.* Not only does the position urged by the Government lack "logic and simplicity," but it violates the explicit provisions of the Internal Revenue Code just as seriously as do the various positions urged by the life insurance companies.

In short, the Government's proposed election makes a hash of a carefully drafted statutory scheme. Only Congress can grant taxpayers in the insurance industry an election to disregard the provisions of Section 801(b) of the Internal Revenue Code, and the other Code sections cited above, by including items in reserves that are not in fact reserves "required by law." The Commissioner of Internal Revenue is not authorized to disregard the statutory command of the legislature by blithely and belatedly discovering an election provision where none exists.

III. THIS CASE IS NOT PRESENTED IN AN ADVERSARY CONTEXT TO THE EXTENT THAT THE GOVERNMENT SEEKS TO ACHIEVE A COMPROMISE SETTLEMENT OF THE DEFERRED AND UNCOLLECTED PREMIUM ISSUE.

As outlined above, the Government's brief indicates (Br. 57) that "the Commissioner is willing to accept the life insurance industry's fictional assumption of full premium payment and consequent overstatement of reserves as long as the same assumption is consistently applied in computing the other elements of the tax formula." For the reasons outlined in the previous section of this brief, the amicus curiae believes that there is no statutory authorization for this proposal.

In addition, however, this attempt by the Government to achieve a compromise settlement with the insurance industry raises questions about the adversary nature of the proceedings in this case. This Court has a right to expect that the parties before it will present the strongest arguments that can legitimately be made in support of their respective positions. But the Government's

attempt to use its brief as a means of achieving a compromise with the life insurance industry prevents this case from being argued in a fully adversary context.

The nonadversary nature of these proceedings is further shown by the Government's failure to adopt and support the interpretation of the Internal Revenue Code adopted in the *Monumental Life* case, *supra.* The legal rationale adopted in that case is clearly the strongest litigating position that can be advanced by the Government before this Court. But, inexplicably, the Government has failed to adopt it, even though the Government *has* revised its presentation of the facts to comport with the findings in *Monumental Life.*

These facts raise questions as to whether this case presents a "case or controversy" within the meaning of Article III of the Constitution. *Moore v. Charlotte-Mecklenberg Board of Education,* 402 U.S. 47 (1971). Where parties before a court urge the same solution to a problem, the case does not present a question "in an adversary context" as required by the Constitution. *Flast v. Cohen,* 392 U.S. 83, 95 (1968). Accordingly, to the extent that the Government seeks in this case to achieve a compromise settlement of the deferred and uncollected premium issue, it appears that this Court may lack jurisdiction to consider the Government's proposal.

CONCLUSION

For the reasons stated above, the judgment of the Court of Appeals should be reversed and judgment entered based on the reading of the Internal Revenue Code adopted in *Monumental Life Insurance Co. v. United States, supra.*

Respectfully submitted,

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